



Agenda Date: 03/09/20  
Agenda Item: 8H

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF A NEW JERSEY SOLAR )  
TRANSITION PURSUANT TO P.L. 2018, C.17 – TREC ) ORDER  
BASE COMPENSATION SCHEDULE ) DOCKET NO. QO19010068

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:

In this Order, the Board modifies the Transition Incentive (“TI”) structure adopted in the Board’s December 6, 2019 Order upon consideration of stakeholder input and recent legislative developments.<sup>1</sup> Specifically, the Board amends the incentive structure of the Transition Renewable Energy Certificates (“TRECs”) to a fixed base compensation of \$152 per TREC generated by eligible facilities. This Order resolves the issue of whether to maintain the TREC base compensation such that it is lower for the first three years of the program (referred to as the “kink” period), or whether to adopt a fixed TREC value over the entire 15 year TI Qualification Life of the incentive for an eligible facility.

**BACKGROUND**

Clean Energy Act

On May 23, 2018, the Clean Energy Act of 2018, P.L. 2018, c. 17 (“Clean Energy Act” or “CEA”) was signed into law and became effective immediately. Among many other mandates, the Clean Energy Act directed the Board to adopt rules and regulations to close the SREC Program (“SRP” or “Legacy SREC Program”) to new applications once the Board determines that 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation supplier has been produced by solar electric power generators connected to the distribution system (“5.1 % Milestone”). The Clean Energy Act also directed the Board to complete a study that evaluates how to modify or replace the Legacy SREC Program to encourage the continued

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<sup>1</sup> I/M/O a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Dkt. No. QO19010068, Order dated December 6, 2019, (“December 2019 Order”).

efficient and orderly development of solar renewable energy generating sources throughout the State. N.J.S.A. 48:3-87(d)(3).

In addition, the Clean Energy Act established a statutory cost cap on the cost of Class I RECs (excluding the cost of offshore wind renewable energy certificates, or “ORECs”). This cost cap prohibits the cost of Class I RECs from amounting to more than 9% of the total paid for electricity by all customers in the State during Energy Years (“EY”) 2019, 2020, and 2021 and from amounting to more than 7% of that cost during subsequent energy years.

### Solar Transition Order

On December 6, 2019, following a yearlong study incorporating significant stakeholder input, the Board issued an Order creating the Transition Incentive program, designed to bridge the gap between the Legacy SREC Program and a still to-be-determined Successor Program. The Transition Incentive is designed to provide a seamless transition for projects submitted to the Board prior to the adoption of the Successor Solar Incentive program. This includes projects that submitted an application to the Legacy SREC Program after October 29, 2018, that have yet to commence commercial operations, and that remain in the SRP pipeline at the time the 5.1% Milestone is achieved. Pursuant to a January 8, 2020 Order, this may also include qualifying projects that enter the SRP pipeline after the attainment of the 5.1% Milestone but prior to the Board’s implementation of a registration program for the Successor Program.<sup>2</sup>

The Transition Incentive was designed to maintain compliance with the CEA statutory cost cap. In particular, the December 2019 Order approved a TREC structured to ensure that the Transition Program remained compliant with the cost cap during the first three EYs of its existence when the cost cap is reduced from 9% to 7% and Legacy SREC Program costs are anticipated to be highest. These years are referred to as the “kink period.” Specifically, to ensure compliance with the cost caps during the kink period, the December 2019 Order approved a valuation structure for the TREC that set a base compensation (“Base Compensation”), i.e., the value of a TREC prior to a project factor being applied. The Base Compensation was set at \$65/MWh for the first three EYs of the Transition Incentive – EY21, EY22, and EY23 – to produce a lower total TI program cost during these three years, thereby increasing the probability that the total cost of the Legacy SREC and TI programs would remain compliant with the statutory cost caps. After EY23, the Base Compensation would increase to \$189/MWh for the remainder of each project’s 15 year TI Qualification Life to ensure that projects receive the full value of the incentive required to develop a project. In other words, when the lower TREC Base Compensation values during the three-year kink period are averaged with the subsequent higher values, the total lifetime Base Compensation value would be roughly equivalent to an average of \$152/MWh. The specific value of a TREC earned would be calculated by multiplying the factor assigned to each TI-eligible project with the Base Compensation for the appropriate year.

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<sup>2</sup> I/M/O a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Dkt. No. QO19010068, Order dated January 8, 2020 (“January 2020 Order”).

This varied or shaped TREC Base Compensation structure was initially proposed in a Staff Straw Proposal in August 2019 within the iterative stakeholder process used to develop a recommendation for the Transition Incentive. Three sets of responses to requests for comments included concerns expressed by a number of stakeholders regarding the impact of the kink period on the solar market. Although the Board adopted the varied TREC schedule as a tool to avoid cost cap exceedance during the kink period, it also directed Staff to initiate an expedited proceeding on the calculation of the cost cap to more fully examine alternatives to lowering the Base Compensation during the kink period in order to remain compliant with the cost caps. Staff conducted this proceeding on an accelerated basis.<sup>3</sup> Comments on the treatment and calculation of the cost cap limits in the Clean Energy Act, N.J.S.A. 48:3-87(d)(2) were submitted on an expedited basis on or before January 16, 2020.<sup>4</sup>

### Legislative Changes to the Cost Cap Calculation

During the period that Staff was conducting the expedited proceeding described above, the New Jersey Legislature was considering the cost cap in the CEA. On January 21, 2020, Governor Murphy signed into law amendments to the Clean Energy Act that provide the Board with more flexibility in calculating the cost cap. S. 4275 (2018), L. 2019, c. 448 (“Cost Cap Act”).<sup>5</sup> The Cost Cap Act provides that the Board may increase the cost to customers of Class I renewable energy requirements in EY 2022 through 2024 under certain conditions. If in EY 2019 through 2021 the cost to customers of the Class I renewable energy requirement is less than 9% of the total paid for electricity by all consumers, then the Board may increase the cost to customers in EY 2022 through 2024 to a rate greater than 7%, so long as the total cost to customer for EY 2019 through 2024 does not exceed the sum of 9% of the total paid for electricity during EY 2019 through 2021 and 7% of the total paid for electricity by all customers in EY 2022 through 2024. While the short-term impact on ratepayers may vary between years, the Cost Cap Act mandates that the amount spent by customers over the entire EY 2019-2024 period not exceed the total Cost Cap as originally established in the Clean Energy Act.

### **STAFF RECOMMENDATIONS**

In the December 2019 Order, Staff’s recommendation noted that there are important policy benefits to smoothing out the kink and adopting a fixed TREC value for the life of the program. As Staff stated:

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<sup>3</sup> The cost cap stakeholder proceeding was comprised of three sets of comments. Comments on the first issue relating to “banking” of cost cap headroom as it relates to the TREC base compensation were received by January 16, 2020. The other issues pertained to the detailed cost cap calculation and potential reforms to the Legacy SREC program. Comments received on all three aspects of this proceeding may be the subject of future orders.

<sup>4</sup> These comments were received prior to the enactment of L. 2019, c. 448, further discussed below.

<sup>5</sup> [https://www.njleg.state.nj.us/2018/Bills/S4500/4275\\_11.HTM](https://www.njleg.state.nj.us/2018/Bills/S4500/4275_11.HTM)

... stakeholders have expressed concerns about the implementation of a custom [Alternative Compliance Payment] in response to the kink period. Many indicated that the revenues in the first three years would be too low to adequately support the solar industry, and that the existence of a kink period custom [Alternative Compliance Payment] would significantly complicate financing for these projects, therefore increasing financing costs.

...

At the outcome of this new proceeding, if it is determined that there is sufficient headroom available under the cost cap to both allow for a flat TREC value of \$152/MWh and develop a robust Successor Program, the Board could opt to eliminate the lower base compensation levels created to accommodate the kink period and smooth out the TREC value to a flat \$152/MWh for 15 years.

The Legislature passed the Cost Cap Act, which was designed to reduce the risk of exceeding the Cost Cap during the kink period. In accordance with the Cost Cap Act, Staff thus recommends that the Board eliminate the lower Base Compensation levels created in the December 2019 Order. Staff recommends that the Board approve a TREC Base Compensation value of \$152/MWh for each eligible project's fifteen-year TREC qualification life.

### **FINDINGS AND DISCUSSION**

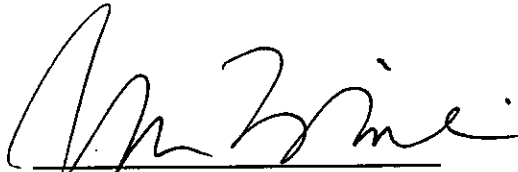
As it stated in the December 2019 Order, the Board is committed to both maintaining our State's position as a solar leader and to controlling ratepayer costs while continuing to develop a robust Successor Program. After reviewing Staff's recommendations and considering the Cost Cap Act and stakeholder's concerns, the Board **HEREBY SETS** a flat Base Compensation TREC value of \$152/MWh for each year of an eligible project's 15-year Transition Incentive Qualification Life. The Board **FURTHER ORDERS** that all other elements of the Transition Incentive program as set out in the December 2019 Order, and further clarified in the Board's January 2020 Order, remain in full force and effect.

The Board **DIRECTS** Staff to work with the TREC Administrator selected in compliance with December 2019 Order to implement a flat \$152/MWh TREC Base Compensation as part of the Transition Incentive program.

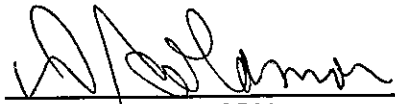
This Order shall be effective on March 19, 2020.

DATED: 3/9/20

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



DIANNE SOLOMON  
COMMISSIONER

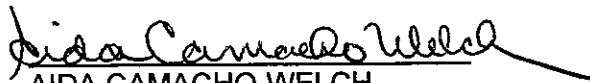


UPENDRA J. CHIVUKULA  
COMMISSIONER



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.

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—TREC BASE COMPENSATION SCHEDULE  
DOCKET NO. QO19010068

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