Breaking Update for Solar Project Developers and Ongoing Solar Projects: New Jersey BPU Announces April 30 Closing Date for Current Solar Renewable Energy Certificate Program

Client Alert

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On April 6, 2020, the New Jersey Board of Public Utilities (BPU) determined that the current and highly successful Solar Renewable Energy Certificate (SREC) program will close on April 30, 2020 (BPU Order).

As we previously advised, the BPU is required to close the subsidy program upon the earlier of June 2021 or the date on which the BPU determines that 5.1% of the kWhs sold in New Jersey are generated from solar electric power systems under the New Jersey Clean Energy Act of 2018. The BPU now expects that by May 1, 2020, 5.1% of the energy consumed in New Jersey will be produced by solar generation electric facilities.

The announced attainment of the 5.1% threshold, although slightly earlier than anticipated, is not a surprise. The BPU Staff has been carefully monitoring the level of solar energy production and had been reporting that the 5.1% threshold was likely to be achieved sometime during the spring of 2020. In February, the BPU Staff estimated the milestone might be achieved in June 2020. On March 31, 2020, the BPU issued a notice indicating that it expected the 5.1% to be achieved in May 2020. The BPU Order notes that the forecasted date for achieving the 5.1% threshold was moved up in part due to lower electricity consumption in February than expected, and as compared to February 2019.

The BPU Order provides that projects under development that have registered in the Solar Registration Program (SRP) will not be eligible for SRECs unless they receive Permission to Operate (PTO) by April 30. Given construction, inspection and PTO delays attributable to the COVID-19 crisis, it may be difficult for projects under construction to achieve commercial operation by April 30.

To foster continued growth in the solar industry and to minimize disruption resulting from the cessation of the SREC program, the BPU has adopted a Transition Incentive (TI) renewable energy certificate program intended to make transition renewable energy certificates (TRECs) to projects that have applied for the current SREC program but have not received PTO as of April 30, 2020. The TI Program is interim and will be replaced by a

successor program that is still under development. The BPU Order recognizes the importance of the TREC program and orders the electric distribution companies and BPU Staff to accelerate the implementation of the TREC Program. Further, the BPU Order directs the BPU Staff to work with market participants to facilitate the TREC registration process.

We will continue to monitor the SREC program closure process and the transition to the TI Program, and will keep you advised accordingly.

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