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Docket Number: QX21040728

Summary

The Board of Public Utilities (“Board”) is proposing to amend its existing solar energy rules and create a new subchapter establishing a Successor Solar Incentive (“SuSI”) Program to serve as the permanent program for providing solar incentives to qualified solar electric generation facilities. The Clean Energy Act of 2018, P.L. 2018, c. 17 (“Clean Energy Act”), as modified by a series of solar-related amendments passed by the Legislature on June 30, 2021 and signed by Governor Murphy on July 9, 2021 (hereinafter referred to as the “Solar Act of 2021”), directs the Board to establish a comprehensive program to provide incentives for the development of at least 3,750 megawatts of new solar power generation by 2026.

Specifically, the Solar Act of 2021 directs the Board to create two solar incentives programs, which largely track the solar program design that the Board has been considering in the stakeholder proceeding conducted under Docket No. QO20020184:

- Section 3 of the Solar Act of 2021 directs the Board to “develop ... a small facilities incentive program to award [New Jersey Solar Renewable Electricity Certificates-IIs (“NJ SREC-IIs” or “SREC-IIs”)] to the owners of” community solar facilities and net metered solar facilities up to 5 megawatts (MWdc) in size.¹ Net metered solar generation facilities are generally connected to the distribution system and most of the solar produced is consumed by the customer on site (see N.J.S.A. 48:3-87(e) and N.J.A.C. 14:8-4); and
- Section 4 of the Solar Act of 2021 directs the Board “develop and administer, as part of the SREC-II program, a transparent, fair, and competitive solicitation process ... promote the construction of solar electric power generation facilities” for larger “grid supply” solar facilities and net metered solar facilities greater than 5 MWdc in size. Grid supply facilities are often connected to the high voltage transmission system and sell electricity and capacity at wholesale.

In compliance with these statutory directives, the Board’s proposed SuSI Program is comprised of two sub-programs: the Administratively Determined Incentive (“ADI”) Program, which provides incentives to facilities under Section 3 of the Solar Act of 2021, and the Competitive Solar Incentive (“CSI”) Program, which serves the larger facilities addressed in Section 4 of the legislation. The SuSI Program design is also intended to ensure that program costs are consistent with the legislative mandate and associated statutory cost caps enumerated at N.J.S.A. 48:3-

¹ All megawatt sizes referenced in this rule are as measured in direct current, or (dc).

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87(d)(2). Potential cost cap regulations are the subject of a separate stakeholder and rulemaking process.

The Board expects to undertake an additional set of rules implementing the CSI Program for grid supply solar facilities and net metered non-residential solar facilities over 5 MWdc through 2021. As required by the Solar Act of 2021, the value of the incentives in the CSI Program will be determined by market forces through a competitive process. The specifics of this competitive process are still undergoing stakeholder discussion, which is expected to continue through much of 2021, and will be followed by a rule proposal, which itself will involve additional public notice and the opportunity for stakeholders to provide comments.

While the specifics of the CSI Program design and implementation are still under development, the overarching SuSI program, which is the subject of this rule proposal, involves a number of regulations that would apply to both the ADI Program and CSI Program, which the Board proposes to establish now. These include such matters as how the solar incentives are created, tracked, and ultimately paid to solar developers; registration rules; qualification rules; and the like. In particular, the Board proposes that the incentive in both the ADI and CSI Programs be delivered through NJ SREC-IIs, as required by Section 2(a) of the Solar Act of 2021. NJ-SREC-IIs awarded under either the ADI or CSI Program will be assigned a fixed value, in \$/Megawatt-hour (\$/MW-hour) of solar electricity produced from a qualifying facility, and paid out for the duration of a project's eligibility for said incentive (the "Qualification Life"). Using a \$/MW-hour incentive structure ensures that solar facilities receive financial incentives only when they actually produce clean solar electricity, which appropriately places the risk of equipment failures, poor siting, construction, or other risks on the private developers instead of ratepayers. The fixed incentive value also has the benefit of providing financial certainty to facilities participating in the ADI and CSI Programs, thereby facilitating project development and financing.

The ADI Program is premised on the idea that there should be a fixed "schedule" of incentives, differentiated by market segment, and denominated in \$/MW-hour, that is established by the Board, and updated on a regular basis. Once a solar project is approved to receive a given incentive level, this level remains fixed for the project's Qualifying Life, which for the ADI Program, is proposed to be 15 years. As the name suggests, incentives under the ADI Program are administratively determined by the Board and intended to represent the gap between project revenues and cost of an "average" solar facility in one of several different "market segments," such as community solar, non-residential net metered facilities or residential net metered facilities. In addition to regularly updating the incentive levels, the Board also proposes to review and potentially revise, via order, the market segment categories for which separate incentive

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values are established, so that the program may quickly adapt to changes in the solar marketplace.

The proposed rules direct the Board to establish ADI Program incentive values that are tailored to individual market segments so as to reflect the actual incentive needs of different types and sizes of projects. This administrative incentive setting will enable developers to know upfront what incentive levels projects are eligible for, thereby providing regulatory certainty and a clear line of sight for project developers. The Board's process of administratively determining incentive values within the ADI Program is largely accomplished via modeling, which includes analysis of the costs of constructing various types of solar facilities, as well as evaluation of the revenues those facilities expect to earn, and other policy considerations. The process ensures that the incentives are set in a manner that balances affordability for New Jersey consumers, ensures the long-term health of the solar industry, and meets the State's clean energy and greenhouse gas reduction goals.

Additionally, the proposed rules specify that the Board shall establish a cap on the number of megawatts of new solar facility capacity that can be served through each market segment, or a grouping of market segments within the ADI Program, on an annual basis. These megawatt blocks ensure that spending on the ADI Program remains in a range that balances the need to maintain customer affordability, a healthy solar industry, and the need to continue New Jersey's transition to a clean electricity grid. The rules allow the Board to set annual megawatt blocks for individual market segments or aggregate multiple market segments into a single block. The megawatt blocks may be differentiated by market segment in order to maintain the industry's existing diversity, and prevent any one single market segment from using up all available capacity in a given year. The proposed rules specify that the megawatt blocks will be determined annually and made available either on a quarterly or annual basis, depending on market conditions at the time.

The inaugural round of ADI Program incentives have been the subject of an intense public stakeholder process, which began in 2018 and concluded mid-2021. The process involved multiple Staff proposals and studies, stakeholder responses to those proposals, and re-proposals, followed by additional stakeholder comment. The proposed rules require Board Staff to conduct a similar stakeholder engagement process to update the incentive levels every three years. Staff's recommendations will be presented to the Board, and the Board may reset incentive levels via order. The administrative pricing reset process is designed to ensure that the solar incentives provided to solar facilities within each market segment continue to keep pace with industry developments and that incentives continue to roughly track the economics of building various solar facilities. The proposed rules also specify that if the Board does not take action to update

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incentive levels, the incentives will automatically decrease by 10% for the next three-year period. Additionally, the proposed rules put parties on notice that the Board retains the ability to reconsider administrative incentive levels within the three-year period if industry-wide trends warrant, or if the program is otherwise experiencing prolonged disruption.

At N.J.A.C. 14:8-2.2, the Board proposes amendments to add definitions for the terms “Administratively Determined Incentive Program”/“ADI Program,” “Administratively Determined Incentive Program Eligible Facility”/“ADI-Eligible Facility,” “Competitive Solar Incentive Program”/“CSI Program,” “Competitive Solar Incentive Program Eligible Facility”/“CSI-Eligible Facility,” “New Jersey SREC-II”/“SREC-II,” “New Jersey SREC-II Administrator”/“SREC-II Administrator,” “Successor Solar Incentive Eligible Facility”/“SuSI-Eligible Facility,” “Successor Solar Incentive Program”/“SuSI Program,” and “Transition Incentive Program”/“TI Program.”

At N.J.A.C. 14:8-2.3, the Board proposes to amend the renewable energy requirements for electricity suppliers/providers (“TPS/BGS Providers”) in New Jersey to include an SREC-II purchase obligation, to add the term “SREC-II” where relevant, and to update the cross-references to the applicable laws. At N.J.A.C. 14:8-2.3(b), (d), (r), (s), and (t), the Board proposes that, as was the case for TRECs, the SREC-II purchase obligation is a carve-out of the NJ Class I REC obligation. The SREC-IIs procured by the SREC-II administrator within an Energy Year are proposed to be allocated to the TPS/BGS Providers according to their share of the retail electricity market. Each NJ SREC-II allocated to a TPS/BGS Provider would reduce its NJ Class I REC obligation by one REC.

At N.J.A.C. 14:8-2.8, the Board proposes amendments to define the energy years during which an SREC-II can be used to comply with the Renewable Portfolio Standards (“RPS”) requirements. The Board also proposes that in using SREC-IIs for RPS compliance, SREC-IIs be treated like SRECs, RECs, and TRECs such that SREC-IIs cannot be used for other purposes or retired more than once.

At N.J.A.C. 14:8-2.9, the Board proposes an amendment to extend provisions relating to the issuance of RECs, SRECs, and TRECs to include SREC-IIs.

At N.J.A.C. 14:8-2.11, the Board proposes an amendment to include SREC-IIs in the existing reporting requirements.

At new N.J.A.C. 14:8-11.1, the Board sets forth the purpose and scope of this new subchapter, namely the creation of rules for the establishment of a Successor Solar Incentive Program.

At new N.J.A.C. 14:8-11.2, the Board proposes new definitions, specific to this subchapter, for the following terms: “Commencing commercial operation,” “Co-location,” “Municipal Electric

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Utility,” “New Jersey SREC-II Qualification Life,” “PJM Environmental Information Services”/“PJM-EIS,” “Public Entity,” and “SuSI Program registration manager.”

At new N.J.A.C. 14:8-11.3, the Board proposes that SuSI Program incentives will be delivered through the creation of solar renewable energy certificates, named SREC-IIs. SREC-IIs would be administered and retired as a carve-out to the NJ Class I REC requirement within the RPS.

At new N.J.A.C. 14:8-11.4, the Board proposes eligibility requirements for the ADI Program. These include the requirement that the ADI Program is open to new net metered residential solar facilities, new net metered non-residential solar facilities five megawatts or less, and new community solar facilities. On an interim basis, the ADI Program would also be open to new solar facilities sited on contaminated sites that were previously eligible for conditional certification by the Board pursuant to N.J.S.A. 48:3-87(t). The eligibility requirements also specify that the ADI Program would remain open so long as there is sufficient capacity available in a given market segment, as described at proposed N.J.A.C. 14:8-11.7.

At new N.J.A.C. 14:8-11.5, the Board proposes to establish a registration process for the SuSI Program. The process is similar to those of the SREC and TI Programs in that facilities seeking to participate in the SuSI Program would be required to register with the Board prior to commencing construction of the proposed facility. In this section the Board also proposes the minimum facility maturity standards, the fee structure, and the documentation which facilities would be required to provide as part of their initial registration package. The Board also specifies the process by which registration packages would be reviewed by Board Staff and the SuSI Program registration manager, and states that registration packages that are eligible and complete would receive a notice of conditional registration. A facility having received a notice of conditional registration would be granted a New Jersey State Certification Number if it commences commercial operation and submits a post-construction certification package prior to the expiration date provided on its notice of conditional registration. Facilities would be eligible for one, six-month extension at the discretion of the SuSI Program registration manager.

At new N.J.A.C. 14:8-11.6, the Board proposes that an SREC-II be valued on a dollar per megawatt hour basis, and proposes to set the New Jersey SREC-II Qualification Life to 15 years from the date of commencement of commercial operation, which is the same Qualification Life used by the Board used in the Transition Incentive Program and the basis of Staff’s financial modeling of the ADI Program incentives. The Board proposes that the value of the incentives provided in the ADI Program be set administratively by the Board via Order, and be reset on a periodic basis. The proposed rules also allow the Board to establish a separate incentive, known as an “adder”, that applies to net metered projects serving public entities, which will increase the value of the NJ-SREC-II assigned to that project for the Qualified Life of the project. In determining whether to

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assign a public entity adder and, if so, its size, the Board shall evaluate whether there are costs that are specific to public entities, the ability of public entities to benefit from federal tax incentives, the societal benefits of solar on public properties, and ownership models for public entities, among other factors.

At new N.J.A.C. 14:8-11.7, the proposed rule requires the Board to establish budget allocations and megawatt capacity limits (megawatt blocks) for each market segment in the ADI and CSI Programs on an annual basis through Board order. These budget allocations are proposed to enable the Board to monitor and manage compliance with the statutory cost cap established at N.J.S.A. 48:3-87(d)(2). The ability to assign different incentives to different market segments allows the Board to tailor incentive values to project needs, which vary based on installation type and size.

At new N.J.A.C. 14:8-11.8, the Board proposes the mechanism through which SREC-IIs are created.

At new N.J.A.C. 14:8-11.9, the Board proposes to apply New Jersey's Prevailing Wage requirements to SuSI projects sized 1 MW(dc) or greater that are certified to receive SREC-IIs.

As the Board has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

This rulemaking will have a positive social impact on New Jersey by promoting the twin legislative goals of the Clean Energy Act of 2018: encouraging the continued efficient and orderly development of solar energy generation in the State and reducing the cost of solar incentives to ratepayers. In addition, the amendments to the RPS rules and the addition of a new subsection to these rules will promote a smooth transition from the existing TI Program to the new SuSI Program. As of May 2021, the SREC Program provided more than \$4.0 billion in incentives to in excess of 129,000 residential, commercial, industrial, and institutional solar projects over approximately fifteen years. These incentives, and the over \$10 billion in private sector investments that they leveraged, produced over three gigawatts (GW) of installed solar electricity generating capacity. The TI program, open to new registrants for only a little over a year, has produced more than 279 MW of installed capacity (as of May 31, 2021). The significant increase in solar generation has reduced fossil fuel generation, resulting in reduced emission of greenhouse gases, particulate matter, and sulfur and nitrous oxide compounds, all of which have demonstrated negative impacts on human health. The Board anticipates that the SuSI Program

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proposed in these rules will build on these successes while also complying with the statutory cost caps and will continue to produce more clean energy and reduce New Jersey’s reliance on fossil fuel resources. Local renewable electricity generation reduces emissions of both greenhouse gases and pollutants linked to negative impacts on human health and biodiversity. These reductions improve health outcomes for New Jersey residents, which in turn brings real economic benefits to the State.

Economic Impact

The proposed SuSI Program is expected to have significant positive economic impacts on the State of New Jersey. These benefits accrue to New Jerseyans in several ways. *First*, the proposed program will result in cleaner air for all citizens of New Jersey, and the reduction in the negative human health impacts of pollution from fossil fuel power plants, and the reduction in the emission of planet-harming greenhouse gases and the attendant sea level rise, which presents a unique challenge to New Jersey’s economy. *Second*, the new SuSI Program is expected to be a significant source of new solar-related jobs, as well as continuing to employ the 6,000+ New Jerseyans who currently work in solar. The program is expected to create a durable framework that will ensure the long-term health and growth of solar-related employment. *Third*, the Board anticipates that continued investment in solar electricity generating capacity will leverage private investment and stimulate additional indirect economic benefits through local jobs and services. *Fourth*, the program is expected to provide significant electricity savings to customers that elect to invest in solar, as well as allowing customers to protect themselves against any future increase in electricity prices. *Fifth*, the ADI Program provides significant incentives for low- and moderate-income electricity consumers in New Jersey through the community solar program, which provides the financial and environmental benefits of solar to consumers who have historically lacked access to the benefits of solar.

These benefits are balanced against the fact that the clean energy incentives provided under the SuSI Program are collected from New Jersey customers, which, all other things being equal, would result in higher electricity bills. Higher electricity rates can reduce New Jersey’s economic competitiveness vis-à-vis states without a comparable commitment to clean energy. However, these concerns are mitigated through the Board’s commitment to continually reducing incentive levels over time, and the significant reduction of solar incentive levels compared to the incentives historically paid out under the SREC and TREC programs.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a

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Federal standards analysis. This rulemaking has no Federal analogue and is not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq., does not require a Federal standards analysis for the proposed amendments and new rules.

Jobs Impact

This rulemaking is designed to promote the continued vigorous development of the solar market in New Jersey by establishing a successor incentive program to the SREC and TI Programs. By providing an administratively determined incentive to solar projects at or below five megawatts (5 MWdc), this rule proposal provides stability to the small and mid-sized solar market and, since a significant number of developers of small and mid-sized projects are located in New Jersey, tends to promote job creation and retention in the State. In addition, the planned Competitive Solar Incentive Program, which will be supported by provisions of this proposal and more fully developed in a subsequent proposal, is anticipated to open up new types of solar development, primarily large scale solar, which will create new opportunities for industry growth. All systems over one MW in size will be subject to New Jersey's prevailing wage statute.

Agriculture Industry Impact

The proposed establishment of the ADI Program is not expected to have significant impacts on the agriculture industry. The Board notes that the ADI Program is open exclusively to net metered and community solar projects of 5 MW or less, which are largely located on the built environment or otherwise attached to large consumers of electricity adjoining the solar facility, and thus do not typically affect farmland. Further, the Community Solar Energy Pilot Program bars projects located on farmland. Although the proposed rulemaking does not establish specific siting standards, existing statutes and regulations implemented by other New Jersey state agencies will continue to apply to siting on farmland and in other sensitive natural environments. The proposed establishment of the CSI Program may have greater impacts on agricultural lands; however, the CSI Program siting considerations are still under development and will be addressed in a subsequent rulemaking addressing that program specifically.

Regulatory Flexibility Statement

This rulemaking will not impose any recordkeeping, reporting, or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees. With regard to utilities, these amendments and this new subchapter require regulated electric distribution companies ("EDCs") to jointly procure an NJ SREC-II Administrator that will have the responsibility

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to obtain and allocate SREC-IIs to load serving entities with obligations to comply with the Board’s Renewable Portfolio Standard rules. The NJ SREC-II Administrator will be required to report on program activity. The EDCs will recover program costs from their ratepayers. With regard to businesses that qualify as small businesses under the Act, the SuSI Program is a voluntary program and, as such, will not impose any requirements on any small business that chooses not to participate in the program.

Housing Affordability Impact Analysis

This rulemaking will not impact the affordability of housing in New Jersey, nor will it have an impact on the average cost of housing. This rulemaking only addresses a solar energy program and will not directly affect housing prices or the housing market.

Smart Growth Development Impact Analysis

This rulemaking will not impact smart growth development in New Jersey. This rulemaking will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The scope of the rulemaking is limited to establishing a program that will allow the solar industry in New Jersey to smoothly transition to a new solar incentive program.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board evaluated this rulemaking and determined that it will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in **boldface** thus; deletions indicated in brackets [thus]):

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

14:8-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

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“Administratively Determined Incentive Program” or “ADI Program” means the administratively determined incentive program established pursuant to subchapter 11.4.

“Administratively Determined Incentive Eligible Facility” or “ADI-Eligible Facility” means a solar generating facility eligible to participate in the Administratively Determined Incentive Program pursuant to subchapter 11.4.

...

“Competitive Solar Incentive Program” or “CSI Program” means the competitively-determined incentive program established pursuant to subchapter 11.

“Competitive Solar Incentive Eligible Facility” or “CSI-Eligible Facility” means a solar generating facility eligible to participate in the Competitive Solar Incentive Program pursuant to subchapter 11.

...

“New Jersey SREC-II” or “SREC-II” means a certificate issued by the Board or its designee, representing the environmental attributes of one megawatt-hour of electric generation from a SuSI-Eligible Facility having received a New Jersey State Certification Number pursuant to N.J.A.C. 14:8-11.5 or other facility as may be designated by the Board.

“New Jersey SREC-II Administrator” means the entity jointly contracted by the EDCs, in coordination with Board Staff, responsible for administering the procurement and allocation, and coordinating the retirement of NJ SREC IIs.

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...

“Successor Solar Incentive Eligible Facility”, or “SuSI-Eligible Facility”, means a solar generating facility eligible to participate in the Successor Solar Incentive Program, that is to say, eligible to participate in either the Administratively Determined Incentive Program pursuant to subchapter 11.4 or the Competitive Solar Incentive Program.

“Successor Solar Incentive Program” or “SuSI Program” means the solar incentive program established by the Board to replace the SREC and TI Programs, and implemented via two subprograms: the Administratively Determined Incentive Program pursuant to subchapter 11.4, and the Competitive Solar Incentive Program.

“Transition Incentive Program” or “TI program” means the transitional solar incentive program established at N.J.A.C. 14:8-10.

...

14:8-2.3 Amount of renewable energy required

(a) Each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey, shall ensure that the electricity it sells each energy year in New Jersey includes at least the minimum amount of qualified renewable energy required for that energy year, as specified in this section. Requirements for class I, class II, SRECs, [and] TRECs, **and SREC-IIs** are set forth in Table A below:

Table A
What Percentage of Energy Supplied Must Be **SREC-IIs**, TRECs, SRECs, Class I,

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or Class II Renewable Energy

<u>Energy Year</u>	<u>SREC-IIs</u>	<u>TRECs</u>	<u>SRECs</u>	<u>Class I</u>	<u>Class II</u>	<u>Total</u>
June 1, 2018 - May 31, 2019	0%	0%	4.30%	14.175%	2.50%	20.975%
June 1, 2018 - May 31, 2019*	0%	0%	3.29%*	14.175%*	2.50%*	19.965%*
June 1, 2019 - Dec. 31, 2019	0%	0%	4.90%	16.029%	2.50%	18.529%
June 1, 2019 - Dec. 31, 2019*	0%	0%	3.38%*	16.029%*	2.50%*	21.909%*
January 1, 2020 - May 31, 2020	0%	0%	4.90%	21.0%	2.50%	23.50%
January 1, 2020 - May 31, 2020*	0%	0%	3.38%*	21.0%*	2.50%*	26.88%*
June 1, 2020 - May 31, 2021	0%	based on retail sales	5.10%	21.0%	2.50%	23.50%
June 1, 2020 - May 31, 2021*	0%	based on retail sales	3.47%*	21.0%	2.50%	26.97%
June 1, 2021 - May 31, 2022	based on retail sales	based on retail sales	5.10%	21.0%	2.50%	23.50%
June 1, 2022 - May 31, 2023	based on retail sales	based on retail sales	5.10%	22.0%	2.50%	24.50%
June 1, 2023 - May 31, 2024	based on retail sales	based on retail sales	4.90%	27.0%	2.50%	29.50%
June 1, 2024 - May 31, 2025	based on retail sales	based on retail sales	4.80%	35.0%	2.50%	37.50%
June 1, 2025 - May 31, 2026	based on retail sales	based on retail sales	4.50%	38.0%	2.50%	40.50%
June 1, 2026 - May 31, 2027	based on retail sales	based on retail sales	4.35%	41.0%	2.50%	43.50%
June 1, 2027 - May 31, 2028	based on retail sales	based on retail sales	3.74%	44.0%	2.50%	46.50%
June 1, 2028 - May 31, 2029	based on retail sales	based on retail sales	3.07%	47.0%	2.50%	49.50%
June 1, 2029 - May 31, 2030	based on retail sales	based on retail sales	2.21%	50.0%	2.50%	52.50%
June 1, 2030 - May 31, 2031	based on retail sales	based on retail sales	1.58%	50.0%	2.50%	52.50%

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June 1, 2031 - May 31, 2032	based on retail sales	based on retail sales	1.40%	50.0%	2.50%	52.50%
June 1, 2032 - May 31, 2033	based on retail sales ***	based on retail sales **	1.10%	50.0%	2.50%	52.50%

(*BGS Providers with existing contracts)

**The TREC Obligation expressed as a percentage of retail sales in a given energy year will not be known until each energy year when the volume of retail sales subject to the RPS has been determined. Allocation of the Statewide obligation to individual TPS/BGS providers will follow the method set forth at (r) and (t) below.

*****The SREC-II Obligation expressed as a percentage of retail sales in a given energy year will not be known until each energy year has concluded and the volume of retail sales subject to the RPS has been determined. Allocation of the statewide obligation to the individual TPS/BGS providers will follow the method set forth at (r) and (t) below.**

(b) Each supplier/provider that sells electricity to retail customers in New Jersey shall ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of SRECs, [and] TRECs, **and SREC-IIs** required for that energy year as set by the Board. The Board, in consultation with the NJDEP, EDCs, Rate Counsel, the solar energy industry, and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in this chapter, taking into account the cost impacts and public benefits of such increases including, but not limited to:

1.-4. (No change.)

(c) (No change.)

(d) Beginning in EY20, SREC obligations, and TREC obligations are a component of class I renewable energy requirements, and satisfaction of SREC and TREC obligations shall be counted toward class I renewable energy requirements. **Beginning in EY22, NJ SREC-II obligations are a**

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component of class I renewable energy requirements, and satisfaction of NJ SREC-II obligations shall be counted toward class I renewable energy requirements.

(e)-(i) (No change.)

(j) The same renewable energy shall not be used for more than one of the following:

1. (No change.)

2. Creation of a REC under N.J.A.C. 14:8-2.8 or 2.9;

3. Creation of a REC, or of any other type of attribute or credit, under authority other than N.J.A.C. 14:8-2.9, such as another state’s renewable energy standards or any voluntary clean electricity market or voluntary clean electricity program; [or]

4. Creation of a TREC under N.J.A.C. 14:8-10[.]; **or**

5. Creation of an SREC-II under N.J.A.C. 14:8-11.

(k)-(q) (No change.)

(r) Each megawatt-hour (MWh) of retail electricity supplied in New Jersey by a TPS/BGS provider subject to this subchapter carries with it an accompanying TREC **and SREC-II** obligation. For any electricity supplied by a TPS/BGS provider, such supplier/provider shall calculate its TREC **and SREC-II** obligation based upon the total number of TRECs **and SREC-IIs** procured by the TREC Administrator **and SREC-II Administrator** within the applicable Energy Year and the market share of retail electricity sold by the supplier/provider within the Energy Year.

(s) All TRECs shall be created by GATS and procured by a TREC Administrator under contract with the State’s electric distribution companies. **All SREC-IIs shall be created by GATS**

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and procured by an SREC-II Administrator under contract with the State’s electric distribution companies.

(t) During the true-up period following each Energy Year, Board staff shall calculate the market share of total Statewide retail electricity sold by each TPS/BGS provider. The TREC Administrator will allocate a proportionate percentage of the total TRECs procured during the Energy Year to each TPS/BGS Provider. Each TREC allocated by the TREC Administrator shall be retired by, or on behalf of, the TPS/BGS Provider. **The SREC-II Administrator will allocate a proportionate percentage of the total SREC-IIs procured during the Energy Year to each TPS/BGS Provider. Each SREC-II allocated by the SREC-II Administrator shall be retired by, or on behalf of, the TPS/BGS Provider.**

14:8-2.8 Using RECs, SRECs, TRECs, **SREC-IIs**, and ORECs for RPS compliance

(a) An REC, SREC, TREC, **SREC-II**, or OREC shall be used to meet New Jersey RPS requirements for specific energy years, based on the type of renewable energy upon which the REC, SREC, TREC, **SREC-II**, or OREC is based, and the energy year during which the renewable energy was generated, as follows:

1. – 4. (No change.)

5. An SREC-II shall be used to comply with RPS requirements for one of two energy year periods:

i. The energy year in which the underlying energy was generated; or

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ii. The energy year following the energy year in which the underlying energy was generated.

(b) Once a REC, SREC, [or] TREC, **or SREC-II** has been used for compliance with this subchapter, the REC, SREC, [or] TREC, **or SREC-II** shall be permanently retired and shall not be used again.

14:8-2.9 Issuance of RECs, SRECs, [and] TRECs, **and SREC-IIs**

(a) The Board has designated PJM-EIS GATS as the entity that issues class I RECs, class II RECs, TRECs, [and] SRECs, **and SREC-IIs** for use in complying with this subchapter.

(b) The Board may issue an order discontinuing the designation of PJM-EIS GATS under (a) above, and/or approving use of RECs, TRECs, [or] SRECs, **or SREC-IIs** issued by another entity for compliance with this subchapter. The Board shall post a notice of its intent to issue such an order at least 30 days prior to issuing the order, and may, in its discretion, choose to accept public comment on the notice.

(c) Beginning December 4, 2012, in measuring generation to determine the number of RECs, TRECs, [or] SRECs, **or SREC-IIs** to issue, the Board or its designee shall accept only readings of a meter that records kilowatt-hour production of electrical energy, and which meets all applicable requirements at (c)1 and 2 below. The readings may be taken or submitted by any person, but shall be verified by the Board or its designee:

1. – 2. (No change.)

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(d) The Board or its designee shall issue RECs, TRECs, [and] SRECs, **and SREC-IIs** in whole units, each representing the environmental attributes of one megawatt-hour of electric generation.

(e) Electric generation qualifies for issuance of RECs, TRECs, [or] SRECs, **or SREC-IIs** only if:

1. It is solar electric generation produced by a generating facility that is interconnected with an electric distribution system, as defined at N.J.A.C. 14:4-1.2, that supplies electricity to one or more end users located in New Jersey; or

2. It is Class I renewable energy, including solar electric generation after the end of the solar electric generation facility's qualification life, and one or more of the following requirements is met:

i. The generating facility reports its generation electronically to PJM-EIS no less frequently than monthly, and complies with any additional requirements established by PJM;

ii. All of the following requirements are met:

(1) The generating facility reports its generation electronically no less frequently than monthly to an electric distribution company, as defined at N.J.A.C. 14:4-1.2, that is a member of PJM;

(2) The electric distribution company then provides the generator's report electronically no less frequently than monthly to PJM-EIS; and

(3) The generating facility complies with any additional requirements established by PJM-EIS; or

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iii. The generating facility has the sale of the class I or class II renewable energy settled in the PJM wholesale market.

(f) If a generator has accumulated a fraction of a megawatt hour by the end of an energy year, the fraction may be carried over and combined with energy generated in a subsequent energy year in order to make a full megawatt hour that is eligible for a REC, TREC, [or] SREC, **or SREC-II**. In such a case, the combined energy shall be eligible for issuance of a REC, TREC, [or] SREC, **or SREC-II** only during the energy year in which accumulated generation reaches one full megawatt hour. Only a fraction of a megawatt hour shall be carried over.

(g) The Board shall require submittal of information and certifications needed to enable the Board, or its designee, to verify the generation that forms the basis of the requested RECs. The Board shall require inspections, as appropriate, of generation equipment, monitoring and metering equipment, and other facilities relevant to verifying electric generation. The Board shall impose application fees, inspection fees, and/or other charges for any work required to verify electric generation and issue RECs, TRECs, [or] SRECs, **or SREC-IIs**.

(h) The Board, or its designee, shall not issue a REC, TREC, [or] SREC, **or SREC-II** based on electric generation that has previously been used for compliance with this subchapter, or that has been used to satisfy another state's renewable energy requirements or any voluntary clean electricity market or program.

(i) (No change.)

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14:8-2.11 Demonstrating compliance, reporting, and recordkeeping

(a) (No change.)

(b) If the annual report required under (a) above does not demonstrate that the TPS/BGS provider has supplied the RECs, SRECs, [or] TRECs, **or SREC-IIs** required under Table A of N.J.A.C. 14:8-2.3 for the previous reporting year, the annual report shall be accompanied by ACPs and/or SACPs in sufficient quantities to make up the shortfall.

(c) The annual report shall contain the following basic information for the preceding reporting year:

1. – 5. (No change.)

6. The total number of SRECs, [and] TRECs, **and SREC-IIs** retired for the purpose of compliance with this chapter;

7. (No change.)

8. The total amount of solar electric generation, class I renewable energy, and class II renewable energy represented by RECs, SRECs, [and] TRECs, **and SREC-IIs** submitted with the annual report;

9. – 11. (No change.)

12. The price of each REC, SREC, [and/or] TREC, **and/or SREC-II** that was retired during the energy year.

(d) The documentation required under (c) above shall include the following:

1. – 3. (No change.)

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4. For each SREC, [and] TREC, **and SREC-II** submitted, certification of compliance with the requirement at N.J.A.C. 14:8-2.4(b) or 10.6(b) that the REC has not been used to satisfy another state's renewable energy requirements. The certification shall be in a form required by the Board, and available on the BPU website at www.njcleanenergy.com.

(e)-(f) (No change.)

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

14:8-11.1 Purpose and scope

This subchapter sets forth the rules for the establishment of a new solar incentive program, the Successor Solar Incentive Program (“SuSI Program”). The SuSI Program is comprised of two sub-programs: the Administratively Determined Incentive Program (“ADI Program”) and the Competitive Solar Incentive Program (“CSI Program”). The ADI Program is designed to provide an incentive for net metered residential facilities, net metered non-residential facilities five megawatts or less (measured as the sum of the nameplate capacity in DC rating of all photovoltaic panels comprising the facility), and community solar facilities.

14:8-11.2 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

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“Commencing commercial operation” means having obtained permission to operate (PTO) from the relevant electric distribution company.

“Co-location” means siting two or more SuSI-Eligible solar facilities on the same property or on contiguous properties such that the individual facilities are eligible for a higher incentive value than they would be if they were combined into one single facility. In the case of net metered projects, SuSI-Eligible solar facilities shall be not be deemed co-located if they serve separate net metering customers as defined at N.J.A.C. 14:8-4.

“Municipal Electric Utility” means a municipal, county or other governmental entity, or a regional cooperative, which owns and/or operates an electric distribution system in New Jersey.

“New Jersey SREC-II Qualification Life” means the period of time during which a SuSI-Eligible Facility may create NJ SREC-IIs.

“PJM Environmental Information Services” or “PJM-EIS” means the unregulated affiliate of PJM Interconnection LLC that operates the Generation Attribute Tracking System (“GATS”).

“Public Entity,” for purposes of this subchapter, means a customer that is a State entity, school district, county, county agency, county authority, municipality, municipal agency, municipal authority, New Jersey public college, or New Jersey public university.

“SuSI Program registration manager” means the agent of the Board contracted to administer the registration process for SuSI-Eligible Facilities.

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14:8-11.3 Successor Solar Incentive Program Structure

(a) The Successor Solar Incentive Program shall provide an incentive to solar generation facilities deemed eligible pursuant to this subchapter. The SuSI Program incentive shall be paid to SuSI-Eligible Solar Facilities having received a New Jersey State Certification Number pursuant to N.J.A.C. 14:8-11.5 below in the form of NJ SREC-IIs which are created by PJM-EIS GATS for each megawatt-hour generated, metered, and reported to PJM-EIS GATS.

(b) All NJ SREC-IIs shall be jointly procured by the EDCs to satisfy compliance obligations pursuant to the Renewable Portfolio Standards at N.J.A.C. 14:8-11.3(c) below. The EDCs shall jointly procure a NJ SREC-II Administrator, in consultation with Board Staff. The NJ SREC-II Administrator will be responsible for administering the procurement, allocation, and retirement of SREC-IIs.

(c) The SuSI requirement is a carve-out of the Class I RPS requirement. Each NJ SREC-II shall be allocated to, and retired on behalf of, New Jersey's TPS/BGS providers based on their respective market shares of retail sales. Each NJ SREC-II retired shall reduce the Class I requirement by one REC as set forth at N.J.A.C. 14:8-2.3(d), (r) and (s).

(d) The owner of a SuSI-Eligible Facility may assign ownership of a facility's NJ SREC-IIs to a third party if and when one of the following occurs:

- 1. Sale of the facility;**
- 2. Bankruptcy of the owner of the SuSI-Eligible Facility; or**

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- 3. The owner of the SuSI-Eligible Facility enters into a contract assigning ownership to a third party.**

14:8-11.4 Administratively Determined Incentive Program Eligibility

(a) The Administratively Determined Incentive Program shall be open to new net metered residential solar generation facilities, net metered non-residential solar generation facilities five megawatts and less (measured as the sum of the nameplate capacity in DC rating of all photovoltaic panels comprising the facility), and community solar facilities that submit a complete ADI Program registration pursuant to N.J.A.C. 14:8-11.5. Community solar facilities must also be qualified pursuant to the rules and regulations of the Community Solar Energy Pilot Program or Community Solar Energy Program, as relevant, prior to registering in the ADI Program.

(b) The ADI Program shall only be open to new facilities that have not commenced commercial operation prior to the opening of the ADI Program registration portal by the Board, unless otherwise granted special dispensation by the Board. Additionally, facilities seeking eligibility in the ADI Program must submit a registration and receive a notice of conditional registration pursuant to N.J.A.C. 14:8-11.5(g) below prior to beginning construction on the facility, unless otherwise granted special dispensation by the Board.

(c) The equipment used in an ADI-Eligible Facility must be new; that is, none of the equipment may have been used prior to the installation of the ADI-Eligible Facility.

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(d) The ADI Program shall remain open to new registrations so long as there is sufficient capacity available in a given market segment, as described at N.J.A.C. 14:8-11.7 below, Market Segment Megawatt Blocks.

(e) Facilities seeking eligibility to participate in the ADI Program must be connected to the distribution or transmission system owned or operated by a New Jersey electric distribution company. Solar facilities connected to the grid owned or operated by a New Jersey Municipal Electric Utility are also eligible to participate in the ADI Program.

(f) Co-location is not permitted in the ADI Program, unless granted special dispensation by the Board.

14:8-11.5 Successor Solar Incentive Program Registration Process

(a) The SuSI Program registration process shall be developed by Board Staff and the SuSI Program registration manager in compliance with Board rules and orders. All forms and instructions regarding the SuSI Program registration process shall be found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com.

(b) For any facility seeking eligibility for the SuSI Program, the registrant shall submit a complete registration package to the Board or its designee in accord with Board rules and orders and the instructions posted on the NJ Clean Energy Program website.

(c) Each complete registration package must be accompanied by the payment of a registration fee, the value of which will be determined by the Board via order. The registration

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fee shall take effect one year from the opening of the SuSI Program; projects registering during the first year of the SuSI Program will be exempted from the registration fee.

(d) The registrant shall meet minimum facility maturity standards and provide all documentation required by Board rule or order as part of its initial registration package, including, but not limited to:

- 1. A contract between the primary installer and the customer of record;**
- 2. A site map;**
- 3. A disclosure statement signed by the customer, the installer, and the third party SREC-II owner, if applicable, available on the NJ Clean Energy Program website;**
- 4. For net metered facilities, a utility bill showing the site host's name, address, and electric tariff;**
- 5. For facilities sized 25 kW or greater, electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;**
- 6. For net metered facilities sized 25 kW or greater, up to 1 MW, evidence of having submitted to the relevant EDC a Part 1 interconnection agreement signed by the customer-generator and the installer;**
- 7. For net metered facilities sized 1MW or greater, an executed Part 1 interconnection agreement and a Milestone Reporting Form; and**

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8. For public entities seeking eligibility for the ADI public entity adder, if such an adder is established by the Board pursuant to N.J.A.C. 14:8-11.6(g) below, a letter on official stationery of the public agency under signature of a bona fide officer, elected official, or employee of the public entity attesting to the status of the public entity.

(e) Registration packages submitted to the ADI Program shall be reviewed by the SuSI Program registration manager on a first come, first served basis.

(f) Board Staff or the SuSI Program registration manager shall notify registrants whether the facility is eligible to participate in the program, and if the initial registration package is complete, incomplete, or deficient. Registrations that are deemed incomplete due to a minor deficiency, as defined on the New Jersey Clean Energy Program website, will be notified of the deficiency by the SuSI Program registration manager and granted 7 business days to cure the deficiency. Registrations that are deemed ineligible, incomplete, have a major deficiency as defined on the New Jersey Clean Energy Program website, or fail to correct minor deficiencies within the time allowed, will be rejected, and the registration will be cancelled. If the registration is cancelled, the registrant may submit a new complete registration to the SuSI Program if the relevant capacity block established pursuant to N.J.A.C. 14:8-11.7 remains open, or in a future capacity block.

(g) Registrants that submit a complete registration package or that cured all minor deficiencies in the time allowed, and that meet the eligibility and qualification requirements

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for a SuSI market segment pursuant to these rules, will be issued a notice of conditional registration by Board staff or the SuSI Program registration manager. The notice of the conditional registration shall:

- 1. Indicate for which market segment megawatt block the facility is eligible;**
- 2. State that, if the solar facility is constructed as described in the initial registration package, Board staff or the SuSI Program registration manager will issue a New Jersey State Certification Number for the facility upon receiving a complete post-construction certification package, and if no waiver is granted an inspection will be required necessary in accordance with the provisions of Subsection (j) below;**
- 3. Include an expiration date occurring on:**
 - i. The one-year anniversary of the registrant’s notice of conditional registration for net metered facilities; or**
 - ii. The eighteen-month anniversary of a registrant’s notice of conditional registration for community solar facilities; or**
 - iii. The twenty-four-month anniversary of a registrant’s notice of conditional registration for projects granted conditional certification by the Board as part of the Contaminated Sites interim market segment established pursuant to N.J.A.C. 14:8-11.7(b)(8); and**

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4. Include notice that the facility must receive permission to operate from the relevant EDC and submit a post-construction certification packet as defined at N.J.A.C. 14:8-11.5(j) prior to the expiration date indicated in the notice of the conditional registration.

5. After issuance of the notice of conditional certification by the Board, construction of the solar facility as described in the initial registration package may begin.

(h) All registered facilities 1 MW or greater will be required to submit quarterly milestone reporting forms, on a standard form to be developed by the SuSI Program registration manager in coordination with Board Staff. Timely submission of milestone reporting forms will be considered in cases of extension requests per N.J.A.C. 14:8-11.5(i) below.

(i) SuSI-Eligible Facilities that received a SuSI Program notice of conditional registration may request one six-month extension to their registration expiration date. Extension requests must be submitted to the SuSI Program registration manager on or before the expiration date noted in the notice of conditional registration. Any extension request shall be reviewed by the SuSI Program registration manager, in consultation with Board staff, on a case-by-case basis, based on consideration of extenuating circumstances for the delay in completing the facility, evidence that the facility has made progress towards completion, and the likelihood of timely and successful completion of the solar facility. For facilities 1 MW or

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greater, the SuSI Program registration manager shall also consider whether the registrant has submitted timely quarterly milestone reporting forms. If the extension is granted, the SuSI Program registration manager shall provide a new conditional registration expiration date, six months from the expiration of the original conditional registration.

(j) Following commencement of commercial operations and prior to the expiration date provided in the notice of conditional registration, the registrant shall submit a post-construction certification package, through the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. The post-construction certification form and instructions will be found on the New Jersey Clean Energy Program website at www.njcleanenergy.com. If the post-construction certification package demonstrates that all program requirements have been met, and the facility either passes an inspection or receives an inspection waiver, Board staff shall assign a New Jersey State Certification Number to the solar facility for use in obtaining SREC-IIs from PJM-EIS GATS. The Certification Number will identify the facility's market segment, and associated incentive level, based on the completed facility size information certified in the post-construction certification package.

(k) If, after submittal of an initial registration package, an increase of up to 10 percent or 25 kWdc, whichever is smaller, in the solar electric generating facility's generating capacity is planned, the registrant shall notify Board staff following the instructions provided on the New Jersey Clean Energy Program website. Facilities shall not be permitted to increase their generating capacity by more than 10 percent or 25 kWdc, whichever is smaller.

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Notwithstanding a permissible increase pursuant to this subsection, no ADI-eligible facility will be permitted an increase in generating capacity that would expand the project beyond 5 MWdc.

(l) Solar electric generation facilities that have received a notice of conditional registration for SREC-IIs pursuant to N.J.A.C. 14:8-11.5(g) shall retain eligibility to remain in the SuSI Program until the expiration or cancelation of the facility's SuSI registration. Any facility that does not commence commercial operation within the time provided in its SuSI registration (i.e. by the registration expiration date), or that commences commercial operation but does not submit a post-construction certification package within the time provided in its SuSI registration (i.e. by the registration expiration date), will no longer be eligible for the SuSI Program and its registration shall be canceled. A registrant may submit a new registration into the SuSI Program if capacity remains in the relevant megawatt capacity block as established at N.J.A.C. 14:8-11.7. Board staff and the SuSI Program registration manager shall treat the new registration package as if it were a first-time submittal, with no reference to the previous registration process. In the case of re-submittal of an expired registration, registrants will be exempt from the requirement at 14:8-11.4(b) above prohibiting construction on the facility prior to submission of the registration and receipt of a notice of conditional registration.

14:8-11.6 New Jersey SREC-II Value

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(a) A SuSI-Eligible Facility shall be eligible to generate NJ SREC-IIs for 15 years following the date of commencement of commercial operation. This 15-year period is defined as the New Jersey SREC-II Qualification Life at N.J.A.C. 14:8-11.2.

(b) SuSI-Eligible Facilities shall be eligible to create New Jersey Class I RECs at the conclusion of the 15-year NJ SREC-II Qualification Life.

(c) NJ SREC-IIs shall be valued on a dollar per megawatt hour (\$/MW-hour) basis for solar electricity generated by a SuSI-Eligible Facility during each year of the facility's 15-year NJ SREC-II qualification life.

(d) The NJ SREC-IIs produced by each facility registered in the ADI Program shall be assigned a specific incentive level, which shall vary based on which market segment the project is eligible to participate in, as identified at N.J.A.C. 14:8-11.7(b) below or defined by the Board via order.

(e) The ADI Program incentive values shall be reset by the Board via order no less than once every three years, at least six months prior to the end of the third year, after public notice and comment. Factors considered in this proceeding will include, but not be limited to, existing modeling, major policy changes, market performance, and stakeholder input. The incentive values may be reset prior to the end of a three-year period if deemed necessary by the Board. If the Board does not initiate a triennial review and proceeding to affirmatively maintain or reset the incentives, incentives will automatically decrease by 10% for the

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following three year period, and every subsequent three year period, until such time as the Board takes action.

(f) An incentive reset in the ADI Program will not affect facilities with an existing ADI Program conditional registration or facilities already receiving NJ SREC-IIs at the time that the Board enacts the incentive value reset. Reset incentives will apply prospectively to pending applications that have not received conditional registration as well as new applications to the ADI Program until the next incentive value reset.

(g) The Board may, in its discretion, create an adder for ADI-Eligible net metered facilities serving public entities. Factors considered in this decision will include, but not be limited to, costs specific to these types of facilities, the ability of public entities to benefit from federal tax incentives, and the societal benefits of solar on public buildings. If applied, the value of this adder shall be determined by order and shall increase the value of each SREC-II produced by the facility by the amount of the adder for the Qualified Life of the facility. Projects seeking eligibility for the public entity adder may be required to provide supporting documentation in their SuSI Program registration pursuant to N.J.A.C. 14:8-11.5 above.

(h) An ADI-Eligible Facility that, in its entirety, could be eligible for two or more market segments shall be assigned to the market segment with the lower incentive value.

14:8-11.7 Market Segment Megawatt Blocks

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(a) The Board shall set via order an annual budget allocation for each of the market segments described at N.J.A.C. 14:8-11.7(b) below. The annual budget allocations shall ensure that total program spending remains in accord with the cost cap established pursuant to L. 2018, c.17, codified at N.J.S.A. 48:3-87(d)(2), and promote project diversity after considering the historic market share of each market segment. The Board may set annual budget allocations that are aggregated for multiple market segments.

(b) The Board shall allocate megawatt blocks to the following initial market segments in the ADI Program:

- 1. Net Metered Residential (all sizes);**
- 2. Net Metered Non-Residential smaller than 1MW, located on a rooftop, carport, canopy, or floating solar;**
- 3. Net Metered Non-Residential 1MW to 5MW, located on a rooftop, carport, canopy, or floating solar;**
- 4. Net Metered Non-Residential smaller than 1MW, all ground mounted facilities;**
- 5. Net Metered Non-Residential 1MW to 5MW, all ground mounted facilities;**

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6. LMI Community Solar, as defined in the Community Solar Energy Pilot Program or Community Solar Energy Program, as relevant;

7. Non-LMI Community Solar, as defined in the Community Solar Energy Pilot Program or Community Solar Energy Program, as relevant;

8. On an interim basis, Contaminated Sites, which is a market segment open only to facilities previously eligible for conditional certification pursuant to subsection (t) of N.J.S.A. 48:3-87.

(c) The Board may adjust the market segments or create new market segments via order to reflect changes in the solar market. In considering an adjustment, the Board shall include consideration of whether increased or decreased differentiation between market segments is necessary in light of the costs and revenues of different project types, administrative complexity, or the emergence of new technologies.

(d) Based on the annual budget allocation for each market segment established by the Board pursuant to 14:8-11.7(a) above, divided by a forecast of the estimated cost of NJ SREC-IIs from that market segment, the Board will establish by Order an annual capacity megawatt block or quarterly capacity megawatt blocks for market segments. If the Board establishes quarterly megawatt blocks, unused capacity within a block will roll-over from quarter to quarter within each given energy year. The Board may set capacity targets that are aggregated for multiple market segments.

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(e) The SuSI Program registration manager shall accept new registration packages for a given market segment until the capacity block for that market segment is fully subscribed. When the capacity block for a given market segment is reached, the SuSI Program registration manager shall close the registration portal and stop accepting new registrations until the next capacity block is opened. A capacity block will be defined as being fully subscribed when the last registration received in the registration portal causes the total capacity of all registrations in that block to exceed the capacity allocation for said block.

14:8-11.8 Mechanism for creation of NJ SREC-IIs

(a) NJ SREC-IIs shall be created based upon metered generation supplied to GATS by the owners of eligible facilities or their agents. Each SuSI-Eligible Facility must have been issued a New Jersey State Certification Number pursuant to N.J.A.C. 14:8-11.5(g) above, be registered in GATS, and all SuSI-Eligible generation must be transferred to the NJ SREC-II Administrator via an irrevocable standing order, pursuant to (b) below.

(b) Irrevocable Standing Orders shall be treated as follows:

1. An Irrevocable Standing Order, defined in the GATS Operating Rule as “A reoccurring automatic transfer of certificates for a given generating unit from the account holder’s active subaccount to the active subaccount held by different account holders,” shall be created in GATS for each SuSI-Eligible Facility. The Irrevocable Standing Order will cause the automatic transfer of NJ SREC-IIs created by an eligible

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solar facility to a GATS account jointly held by the four EDCs (the “EDC Joint GATS Account”).

i. The Irrevocable Standing Order, upon execution, shall require for that generator that, following the creation of the Standing Order, 100 percent of the certificates created from each meter reading be automatically transferred to the EDC Joint GATS Account.

ii. A Standing Order is not activated until the transferor confirms, and the NJ SREC-II Administrator accepts, the Standing Order transfer.

iii. Prior to the execution of the Standing Order, NJ SREC-IIs may be transferred manually from the account of a SuSI-Eligible Facility to the EDC Joint GATS Account. Following a grace period of one month subsequent to the establishment of a GATS Account for a SuSI-Eligible Facility, the NJ SREC-II Administrator may cease accepting manual NJ SREC-II transfers from a SuSI-Eligible Facility pending the execution of an Irrevocable Standing Order.

2. Solar aggregators, brokers, and installers acting on behalf of solar facility owners may perform the role of transferor, register on behalf of the facility owner and create an Irrevocable Standing Order for each eligible facility for which it is reporting generation into GATS.

3. The NJ SREC-II Administrator will confirm that:

i. Each account holder created an Irrevocable Standing Order;

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ii. Each Irrevocable Standing Order is complete, identifies the transferor, and represents 100 percent of all NJ SREC-IIs for that generator;

iii. The solar aggregator, broker, installer, or other account holder has the authority to create the Irrevocable Standing Order; and

iv. The automatic transfer of NJ SREC-IIs has occurred.

4. Irrevocable Standing Orders authorizing transfers can only be terminated with the written consent of both parties.

(c) One NJ SREC-II shall be created for each megawatt-hour (MWh) of eligible electricity produced from a SuSI-Eligible Facility. A NJ SREC-II created for eligible electricity shall not be used for a purpose other than satisfying the SuSI Program carve-out to the NJ Class I requirements of the RPS.

(d) All solar electricity must be metered using an ANSI c-12 certified meter in conformance with N.J.A.C. 14:8-2.9(c).

(e) A NJ SREC-II may be redeemed in GATS in the energy year in which the electricity was produced or in the following energy year.

(f) Electricity generated by a SuSI-Eligible Facility that is not redeemed in GATS in the energy year in which the electricity was produced or in the following year, shall not be eligible for a NJ SREC-II, but shall be eligible to create a New Jersey Class I REC.

14:8-11.9 Prevailing Wage Requirement

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(a) NJ SREC-IIs are deemed Board of Public Utilities financial assistance subject to prevailing wage rates pursuant to section 1 of P.L.2009, c.89 (N.J.S.A. 48:2-29.47) for all SuSI-Eligible Facilities sized 1 MWdc or greater.

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