

An Update on Solar in New Jersey: Expiration of Valuable New Jersey Solar Energy Subsidies Anticipated for 2020

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Time is running out to secure critical economic benefits for New Jersey solar energy projects. Under the current New Jersey Board of Public Utilities (BPU) solar incentive program, solar providers are eligible to earn one solar renewable energy certificate (SREC) for each MW of solar energy produced. However, the Clean Energy Act of 2018 provides that eligibility for the current SREC registration program (SRP) will end when 5.1% of the energy consumed in New Jersey is supplied by solar production. If a solar project has not filed for SREC registration and realized commercial operation prior to the achievement of the 5.1% threshold, the project will not be eligible for the current SREC program.

While large-scale solar projects have a long lead time, the good news for many rooftop projects is that there is still time to qualify for the current SREC program. The revenues that a solar user can realize under the program can result in a significant reduction in a project's net costs. New Jersey SRECs are currently trading on the spot market at around \$220.

In February 2019, the BPU issued an Order estimating that the 5.1% threshold may be achieved in May or June of 2020. On July 5, 2019, the BPU's consultants responsible for overseeing the transition of the current SREC program to an alternative subsidy mechanism estimated that the 5.1% is likely to be achieved sometime in September 2020. When the threshold will actually be achieved remains unknown.

In anticipation of the end of the current SREC program, the BPU is conducting stakeholder proceedings for input on an SREC transition program. In an August 28, 2019 Report and Order, the BPU issued a "straw proposal" regarding an SREC transition program. The straw proposal recommends that solar projects that have completed the SRP

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process, but have not achieved commercial operation prior to the 5.1% threshold being achieved, will be eligible for a modified SREC program referred to as a “Transition REC” (TREC) program.

How the value of TRECs would be determined is unresolved and will likely be subject to significant debate. It appears, however, that the value of TRECs will be considerably lower than SRECs under the current program. In fact, the proposed solar transition program has received broad criticism from the solar industry on the basis that the value of TRECs will be insufficient to sustain solar investment. Moreover, it is uncertain whether the BPU will adopt the TREC program or a similar alternative.

If a solar project is uncertain whether it can achieve commercial operation prior to the 5.1% threshold being attained, the project should be structured to account for the uncertainty. Such a structure could provide alternative pricing for the project (or the power to be sold from the project if a Power Purchase Agreement (PPA) is in place) based upon whether the project achieves commercial operation prior to the termination of the current SREC program.

Please contact the author of this Alert, **Barbara J. Koonz**, to learn more about New Jersey’s solar energy program and related incentives.