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Subject: Synopsis of signed solar legislation

Utility Scale Solar – S2605/A4554

BPU has up to one year to develop rules and regulations for the SREC successor program and will develop siting criteria in consultation with DEP and the Secretary of Agriculture.

Solicitation for projects will occur at least every 18 months, beginning immediately and ending no earlier than January 1, 2026 (for projects over 5MW).

First awards will be made no later than 18 months after the effective date. BPU shall approve, conditionally approve or disapprove any application no more than 90 days after receipt of a complete application. For any project greater than 25KW, BPU shall require the applicant to post an escrow of \$40 per kilowatt, not to exceed \$40,000.

SREC term for approved projects will be ten years.

Grid supply and net metered solar facilities over 5MW shall not be sited on: land preserved through Green Acres, land located within the preservation area of the pinelands areas, land designated as forest area in the pinelands comprehensive management plan, land designated as freshwater wetlands, lands located with the Highlands preservation area, forested lands as defined by the BPU in consultation with the NJDEP, or prime and statewide significant soils as identified by USDA NRCS and located in ADAs certificated by the SADC, in excess of the statewide threshold of 2.5% of prime and statewide significant soils within ADAs.

After 2.5% of prime and statewide significant soils within ADAs have been approved by the BPU to be utilized as grid supply solar or net-metered facilities greater than 5MW, any additional projects on prime or statewide significant soils within ADAs will require a waiver.

A developer may petition the BPU for a waiver by setting out the unique factors that make the project consistent with the character of the specific parcel, including whether the property is a contaminated site or landfill, otherwise marginal land, or whether the project utilizes exiting development or existing areas of impervious coverage. BPU shall, in consultation with the NJDEP and Secretary of Agriculture, consider the petition and grant a waiver if the project is deemed to be in the public interest. In no case shall projects approved by the BPU occupy more than 5% of unreserved land with prime and statewide significant soils within ADAs.

The BPU, in consultation with the Secretary of Agriculture, shall track and record prime and statewide significant soils within ADAs utilized for solar energy production. Grid supply solar is prohibited on preserved farmland.

Rules require the BPU to issue a credit or other incentive to those generators that do not use a net meter but otherwise generate electricity derived from a Class I renewable energy source and to issue an enhanced credit or other incentive, including, but not limited to, a solar renewable energy credit, to those generators that generate electricity from solar technologies.

No later than five years after the adoption of rules and regulations, the BPU in consultation with NJDEP and the Secretary of Agriculture, shall conduct a review to assess program performance, identify problems, and recommend changes to the siting criteria to better effectuate the policy goals set forth.

July 15, 2021

Dual Use Solar – S3484/A5434

This bill revises and supplements the law concerning solar energy generation on farmland.

BPU has 180 days to write the rules and regulations for the dual-use pilot program.

It allows an owner of unreserved farmland that receives farmland assessment to construct, install and operate a dual-use solar energy project on farmland and continue receiving farmland assessment. Dual use projects are capped at 10MW and must allow for the continued use of land below the panels to be simultaneously used for agricultural or horticultural production. No generated energy from a dual-use solar energy project will be considered an agricultural or horticultural product, and no income from any power sold from the dual-use solar energy project would be considered income for the purposes of eligibility for farmland assessment.

To be eligible under the bill, the owner of the unreserved farmland would be required to obtain the approval of the Department of Agriculture, in addition to any other approvals that may be required pursuant to federal, State or local law, rule, regulation, or ordinance, prior to the construction of the dual-use solar energy project. The bill would prohibit a dual-use solar energy project from being located: on preserved farmland; within the preservation area of the pinelands area; with an area designated as forest area in the pinelands comprehensive management; in wetlands; or within the Highlands preservation area. In addition, the land owner would be required to file a conservation plan with the soil conservation district to account for the aesthetic, impervious coverage, and environmental impacts of the dual-use solar energy project, including, but not limited to, water recapture and filtration, and the conservation plan would require approval by the district, and to comply with agricultural management practices adopted by the State Agriculture Development Committee (SADC).

Prior to constructing, installing, and operating a dual-use solar energy facility, the landowner would be required to apply to the Department of Agriculture for approval and the department, in consultation with the Board of Public Utilities (BPU) would be required to, within 90 days after receipt, approve, disapprove, or approve with conditions the application. The bill directs the Department of Agriculture, in consultation with the SADC, the BPU, and the Department of Environmental Protection, to adopt rules and regulations, including, but not limited to: the process by which a landowner may apply for the approval required by the bill; the establishment of reasonable application fees to pay for the cost of review of the application; and provisions prescribing standards concerning impervious cover which may be permitted in connection with dual-use solar energy projects.

The bill would require the Division of Taxation, in consultation with the Department of Agriculture and the BPU, to adopt rules and regulations as may be necessary for the implementation and administration of the bill, and to incorporate information concerning dual-use solar energy projects into the guidelines provided and the continuing education course offered to municipal tax assessors, county assessors, county tax administrators, and other appropriate local government officials.

This bill would delete, for solar energy generation facilities, structures, and equipment: (1) the requirement in current law that requires energy generation facilities, structures, and equipment on agricultural lands either be owned by the landowner or that the landowner uses the income or credits realized from the biomass, solar, or wind energy generation to purchase the facilities, structures, or equipment, and (2) the requirement for the owner to only sell energy via net metering or as otherwise permitted under a specialized agreement with an installer whereby the landowner uses the income or credits realized from the solar energy generation activities to purchase the solar energy generating facilities, structures, or equipment.

This would enable the owners of dual-use solar energy projects constructed on unreserved farmland pursuant to the bill to be eligible for SRECs. The bill further provides that a dual-use solar energy project approved pursuant to the bill would be considered "connected to the distribution system," without requiring certain other review by the BPU.

Lastly, the bill amends the law establishing the Community Solar Energy Pilot Program to provide that dual-use solar energy projects constructed pursuant to the bill would be considered qualified solar energy projects for the purposes of that program.

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