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New Solar Energy Law Seeks to Stabilize SREC Market

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Encourage Solar Development on Brownfields and Former Landfill Sites

New Jersey has renewed its commitment to the continued growth of solar energy development with the bipartisan passage of S-1925/A-2966, which was signed into law by Governor Christie on July 23, 2012. In a nutshell, the new law is intended to increase demand for SRECs, which in turn will hopefully drive up the price of the SREC and bring new stability and vitality to the State's solar industry.

A dramatic increase in the quantity of installed solar capacity in New Jersey over the past several years brought a flood of SRECs into the market, driving the value of an SREC from a high of nearly \$700 to below the \$100 mark. This scenario has steadily diminished the financial return-on-investment necessary to drive new solar construction, with many would-be solar developers wary of commencing new projects.

The new law, which amends certain provisions of the 2010 Solar Energy and Fair Competition Act, seeks to "fix" the SREC problem, and as a consequence increase solar development, as follows:

- The law resets and accelerates the rate of increase of New Jersey's solar renewable portfolio standard (RPS) requirement, changing it from a fixed statewide gigawatt-hour requirement to a percentage of the electricity sold in the State. The required percentage of solar power to be included in the electric power portfolios of New Jersey suppliers and providers will increase incrementally from 2.050% in energy year 2014 to 4.100% in energy year 2028. This new structure is intended to shield the value of SRECs from wide market fluctuations and also to absorb, through increased demand, the current over-supply of SRECs in the marketplace. This will benefit the solar energy provider that does not have a contractually set SREC price in place, as well as the entrepreneur presently considering entry into the solar arena.

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- The law lengthens the life span of SRECs from three to five years, and in anticipation of rising SREC prices, includes a provision that reduces the Solar Alternative Compliance Payment (SACP) schedule, which previously was set by the Board of Public Utilities (BPU).
- In a further effort to control the influx of SRECs into the market, which could negatively impact supply and price, the law provides for the BPU to serve as the “gatekeeper” of entry by large non-net metered and non-on-site generation systems. In order to implement this added control, the BPU will establish an approval process requirement for such systems to qualify for SRECs. Systems located on a brownfield or closed sanitary landfill site are exempt from this approval process.
- The law also provides for the BPU to establish a program to provide SRECs and additional financial incentives - ‘super SRECs’ - to owners of solar projects constructed on a brownfield or closed sanitary landfill facility, as well as to consider the establishment of additional financial incentives for 3MW or greater net metered solar projects.

The passage of S-1925/A-2966 into law is welcome news for members of the solar development community, for property owners seeking lower electricity costs, and for landlords who want to obtain rental value from their building roof, provide their tenants with less expensive electricity and make their rental properties more competitive. Solar installation project costs have also decreased significantly in the past couple of years, giving rise to additional cause for optimism.

We will continue to monitor developments in New Jersey’s solar energy sector, and will keep you informed regarding future incentives and strategies for effectively securing these benefits. For more information on solar energy development, please contact **Maura Blau** (the author of this Alert) or **Jack Fersko**, co-chair of our Alternative Energy & Sustainable Development Practice Group.