



Agenda Date: 4/27/16  
Agenda Item: 8E

**STATE OF NEW JERSEY**  
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CLEAN ENERGY

IN THE MATTER OF THE CLEAN ENERGY PROGRAMS ) ORDER  
AND BUDGET FOR FISCAL YEAR 2016 REVISIONS TO )  
C&I ENERGY EFFICIENCY PROGRAM – DIRECT )  
INSTALL PROGRAM AND PROGRAM REVISIONS )  
RELATED TO 2015 BUILDING CODES ) DOCKET NO. QO15040477

**Parties of Record:**

- Michael Ambrosio**, Applied Energy Group
- Diane Zukas**, TRC Energy Services
- Mark Mader**, Jersey Central Power & Light
- Timothy White**, Atlantic City Electric
- Sandra Eason-Perez**, Orange & Rockland Utilities
- Bruce Grossman**, South Jersey Gas Company
- Susan Ringhof**, Public Service Electric and Gas Company
- Andrew Dembia**, New Jersey Natural Gas
- Mary Patricia Keefe**, Elizabethtown Gas
- Stefanie A. Brand, Esq.**, Director, Rate Counsel

**BY THE BOARD:**

This Order memorializes action taken by the Board of Public Utilities (“Board”) at its April 27, 2016 public meeting where the Board considered certain revisions to New Jersey’s Clean Energy Program’s (“NJCEP’s”) Commercial & Industrial (“C&I”) Energy Efficiency (“EE”) Programs. The program revisions concern the following programs: Direct Install, SmartStart, Pay for Performance, the Large Energy Users Program, and the Local Government Energy Audit program.

**BACKGROUND AND PROCEDURAL HISTORY**

In accordance with the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”), and by Order dated June 25, 2015 (“FY16 Order”), Docket No. QO15040477, the Board approved Fiscal Year 2016 (FY16) programs for the NJCEP. In the FY16 Order, the Board also approved the FY16 compliance filings of Honeywell International, Inc. (“Honeywell”), which managed the Residential EE and RE Programs, TRC Energy Solutions, Inc. (“TRC”), which manages the C&I EE Programs, the Office of Clean Energy (“OCE”), which manages

some programs by itself and others through the New Jersey Economic Development Authority (“EDA”) and the electric and gas utilities (collectively referred to as “the Utilities”), which manage the low-income Comfort Partners Program.<sup>1</sup> The compliance filings include program descriptions for each program, and the Board has since approved updates and revisions to some of the compliance filings.

On March 24, 2016, OCE Staff provided the public with notice of, and the opportunity to comment on, the below-described proposed revisions to the C&I EE Program (the “Proposed Revisions”). Specifically, the Proposed Revisions were circulated to the EE Committee listserv and posted on the NJCEP website. The Proposed Revisions were also discussed at the February 22, 2016 meeting of the EE Committee. Comments were due by April 7, 2016.

This Order makes revisions to the C&I EE Programs as set forth below.

## **PROPOSED REVISIONS TO THE DIRECT INSTALL (“DI”) PROGRAM**

### **Background**

The DI Program is designed to offer small to mid-sized local government and commercial building owners the opportunity to retrofit or replace existing inefficient equipment by providing incentives that cover seventy percent (70%) of eligible project costs, up to \$125,000. To date, DI has been delivered statewide on a “turnkey” equipment and installation basis by multiple regional participating contractors selected by NJCEP via an open and competitive Request for Proposal (“RFP”) bidding process.

Under the new Program Administrator contract, NJCEP will maintain the turnkey approach, incentive levels, and eligibility requirements utilized to date. However, OCE Staff proposed the below revisions to the method by which the DI Program is delivered.

### **DI Program Revisions**

The DI Program revisions will reduce the overall cost of labor and materials, and increase the number of contractors participating in the Program:

- **Update program pricing:** The Program Administrator will develop RFPs to obtain updated program pricing for all labor and materials covered by the DI Program. All contractors and suppliers (collectively, “Participating Vendors”) will be selected via an open and competitive RFP bidding process. The Program Administrator will issue two RFPs: (a) one for turnkey equipment and installation for any DI projects within one or more regions, with each successful contractor purchasing any HVAC/Mechanical equipment from the vendors of the contractor’s choice; and (b) the other for the supply of non-HVAC/Mechanical equipment to the contractors selected through the RFP described in (a).
- **Allow applicants to use a contractor of their choice:** Applicants will be allowed to use contractors of their own choice, so long as their chosen contractor meets the DI Program’s training and other requirements and agrees to the DI Program’s established

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<sup>1</sup> A Program Administrator contract was awarded on December 1, 2015 to Applied Energy Group Inc. (“AEG”). A transition plan is being implemented to transition responsibilities from the former Market Managers to AEG and its team of subcontractors.

pricing. If the applicant's chosen contractor is unable or unwilling to meet the foregoing, the applicant may instead proceed using a Participating Vendor in the applicant's region.

### **PROPOSED PROGRAM REVISIONS RELATED TO THE ADOPTION OF IECC 2015**

The International Energy Construction Code ("IECC") 2015, including its EE Subcode ASHRAE 90.1-2013 (collectively, "New Code"), was adopted by New Jersey's Department of Community Affairs on September 21, 2015, with an effective date of March 21, 2016 ("New Code Date"). The New Code significantly increases the level of energy efficiency required as compared to that required by the previous IECC 2009 and its ASHRAE 90.1-2007 (collectively, "Old Code"). For example, the New Code requires 25% more efficiency on average across all building types, and 35% more efficiency in retail buildings and schools, than did the Old Code.

In order to receive a building permit under the Old Code, a complete permit application must have been received by the local permitting agency prior to the New Code Date. The local permitting agencies determine whether building permit applications are complete and timely.

Because the change from the Old Code to the New Code occurred in the midst of NJCEP's program year, many NJCEP program structures, incentives, efficiency levels, and technical requirements should be updated to ensure that incentives are paid only for projects that meet or exceed the New Code. Accordingly, OCE Staff proposed the following:

#### **NJ SmartStart Buildings (SmartStart)**

Applications received during FY16 that fail to meet the requirements of the New Code will be eligible for SmartStart incentives only upon: (a) proof of equipment purchase prior to the effective date of the New Code, March 21, 2016, or (b) proof of the local permitting agency's receipt of a complete building permit application prior to the New Code Date.

Applications received during FY16 that meet or exceed the New Code will be eligible for SmartStart incentives if they are regarding: (a) Retrofit projects that at least meet the requirements of the New Code, or (b) New Construction projects that exceed the requirements of the New Code.

For Fiscal Year 17 (FY17), SmartStart efficiency requirements, incremental savings, and related incentive levels are expected to be re-evaluated in light of the New Code.

#### **Pay for Performance**

Applications received during FY16 for Existing Buildings will also be eligible for SmartStart incentives if they meet or exceed the requirements of the New Code (if applicable) or SmartStart, whichever is more stringent. The foregoing is expected to continue through FY17.

Applications received during FY16 for Pay for Performance New Construction will be eligible for SmartStart incentives upon:

- a) Proof of the local permitting agency's receipt of a complete building permit application prior to the effective date of the New Code Date, March 21, 2016; or
- b) Demonstration of at least 15% energy cost savings above the New Code requirements.

For FY17, the Pay for Performance New Construction Program is expected to be re-evaluated in light of the New Code. Preliminary evidence suggests it will not be feasible for some facilities to achieve the currently required 15% energy cost savings above New Code requirements, which infeasibility could significantly and adversely affect participation in the Program.

### **Large Energy Users Program**

Applications received after the New Code went into effect will be eligible for incentives if they meet or exceed the requirements of the New Code (if applicable) or SmartStart, whichever is more stringent.

The foregoing is expected to continue through FY17.

### **Direct Install**

The upcoming DI RFP (see discussion above at "Proposed Revisions to the Direct Install ("DI") Program") and any related contracts will include equipment pricing, efficiency levels, and contractual language that will require the New Code to be met or exceeded.

### **Local Government Energy Audit**

All measures recommended through an LGEA will meet or exceed the New Code (if applicable) or SmartStart, whichever is more stringent.

## **SUMMARY OF COMMENTS FROM PUBLIC STAKEHOLDERS AND STAFF RESPONSES**

Written comments were submitted by Freeaire, Lime Energy, New Jersey Natural Gas ("NJNG"), Willdan, and the New Jersey Division of Rate Counsel ("Rate Counsel"). The following summarizes the comments and also provides OCE Staff's responses to them:

### **Comments on Proposed DI Program Revisions**

**Comment:** Freeaire expressed its support for the DI Program and for the Board's intention to increase the number of contractors participating in the Program. Rate Counsel commented that, based upon OCE Staff's representations, the Proposed Revisions seemed reasonable. NJNG expressed its support for many of the Proposed Revisions.

**Response:** Staff appreciates the support.

**Comment:** Freeaire and Lime Energy made a variety of recommendations for possible improvements to the DI Program, including:

1. Creating a classification for specialist vendors ("Qualified Vendors"). The Qualified Vendors would:
  - a. Consist of, for example, refrigeration vendors.
  - b. Support the Participating Vendors.
  - c. Be selected through an RFP and/or Request for Qualifications ("RFQ") process.
  - d. Have access to networking with, and any online tools used by, those administering or participating in the Program, as well as customer usage data (with customer consent).

2. Providing for facilitated program access, through which (a) the Participating Vendors would come to respect regional allocations set by the Program but also to expect a reasonable amount of work by vendors working outside of their regions; and (b) the Qualified Vendors would have some mechanism for protecting leads they might provide to a Participating Vendor.
3. Refraining from creating exclusive regions for refrigeration vendors.
4. Instead of flatly rejecting projects that fail a cost/benefit analysis, capping the amount of the incentive provided, on a per kilowatt hour basis.
5. Implementing a unified approach to energy efficiency financing, including:
  - a. A structure where the customer's monthly cost is less than his/her monthly savings, such as "bill recovery."
  - b. Leveraging 3rd party, private capital financing.
6. The use of digitally connected solutions, i.e., the "Internet of Things."
7. Requiring digital monitoring for refrigeration EE measures and encouraging it for all EE measures.
8. Moving to a Pay-for-Performance program design.
9. Adopting a variable incentive structure.

**Response:** Most of these recommendations are not directly related to the current proposal. The recommendations that are related to the current proposal (e.g., including a Qualified Vendor RFP or RFQ as part of the proposed RFP process) will be considered as the proposed RFPs are being developed. Those that are not directly related to the current proposal will be considered in the context of possible future updates/enhancements to the Program. As mentioned at the March 24, 2016 EE meeting, OCE Staff is likely in the first half of FY17 to convene stakeholders to discuss potential DI program upgrades and revisions, including, among other things, items such as those identified by the commenters.

**Comment:** Freeaire commented that it is unclear whether a Participating Vendor with an allocated geographic territory will be allowed to enter and compete in another territory as the designee of a customer.

**Response:** Under the new program design, an applicant/customer that has an existing relationship with a Participating Vendor may utilize that Participating Vendor for locations outside of the Participating Vendor's assigned territories. In that case, the Participating Vendor would be responsible for notifying the Program Manager (PM) of these locations. The PM, in turn, would be responsible for communicating information about these locations to the appropriate Participating Vendors assigned to the affected territories, so as to eliminate any duplication of contact or site visits. This is similar to the practice followed under the existing Program by which Participating Vendors could seek permission to work for a customer outside of their assigned territories.

**Comment:** Willdan asked how the regions will be determined, how the RFP will be structured, and what requirements vendors must meet.

**Response:** These details will be determined as the RFPs are developed and will be provided in the RFPs, all of which will follow the Board's approval of the proposed DI design, if the Board approves such design.

**Comment:** NJNG commented that it was hopeful that the RFP process would be expedited so as to be completed by the beginning of FY17 on July 1, 2016 to provide the basis for NJNG's own SAVEGREEN Project.<sup>®</sup>

**Response:** Best efforts will be made to complete the RFP process by that date.

#### **Comments on Proposed Program Revisions Related to the Adoption of IECC 2015**

**Comment:** Willdan asked how the adoption of IECC 2015 will affect the Program requirements for Retrofit projects that involve lighting measures.

**Response:** Retrofit projects involving lighting measures typically apply through the Prescriptive Lighting application path, which path does not require the submission to the Program of any documentation regarding code compliance. Accordingly, the adoption of IECC 2015 will not have any direct effect on such projects. For the avoidance of doubt, the foregoing does not imply that such projects need not comply with any building codes, etc. that may apply to them; instead, it simply means that the Program leaves such matters to local building code officials, etc.

#### **STAFF RECOMMENDATIONS**

OCE Staff has considered the written comments regarding the Proposed Revisions. Staff's final recommendation includes the Proposed Revisions and staff responses to the comments. Staff anticipates that the Proposed Revisions will help to ensure greater participation in NJCEP and conform program requirements to the New Code.

The Program Administrator submitted a revised compliance filing, dated April 27, 2016, incorporating the Proposed Revisions, as refined in accordance with OCE Staff's recommendations in the Responses above ("Revised Compliance Filing"). OCE Staff recommends approval of the Revised Compliance Filing.

#### **DISCUSSION AND FINDINGS**

Consistent with its contract with the Program Administrator, OCE Staff has coordinated with the Program Administrator<sup>2</sup> regarding the Proposed Revisions. OCE Staff, in conjunction with the Program Administrator, also discussed the Proposed Revisions at a public meeting of the EE Committee to receive comments and input. The Proposed Revisions also were circulated to the EE committee listserv and posted on the NJCEP web site, and written comments were accepted from the public. Therefore, the Board **HEREBY FINDS** that the process utilized in developing the Proposed Revisions was appropriate and provided stakeholders and interested members of the public adequate notice of, and the opportunity to comment on, them.

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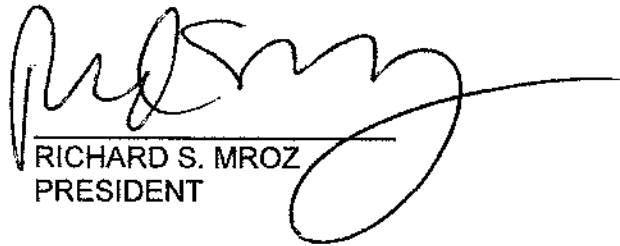
<sup>2</sup> See note 1 above.

Further, the Board has reviewed the Proposed Revisions and OCE Staff's recommendations regarding same, and **HEREBY FINDS** that the Proposed Revisions include updates that are appropriate in light of the adoption of the New Code, will benefit customers, and are consistent with the Board's goal of reducing energy usage and associated emissions. Therefore, the Board **HEREBY APPROVES** the Proposed Revisions as refined in response to stakeholder comments.

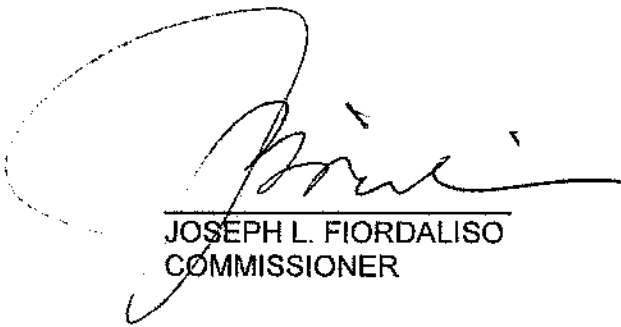
Finally, the Board has also reviewed OCE Staff's recommendation that the Board approve the Revised Compliance Filing and **HEREBY FINDS** that recommendation to be reasonable and appropriate. Therefore, the Board **HEREBY APPROVES** the Revised Compliance Filing. This Order shall be effective May 7, 2016.

DATED: 4/27/16


BOARD OF PUBLIC UTILITIES  
BY:



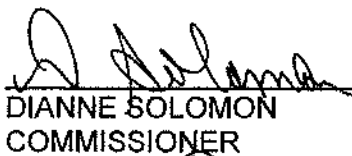
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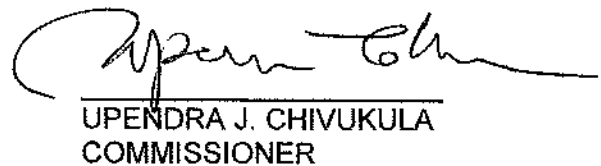
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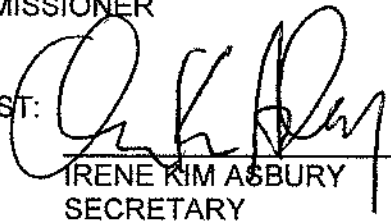
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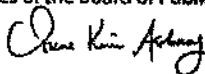
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ATTEST:   
IRENE KIM ASBURY  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE CLEAN ENERGY PROGRAMS AND BUDGET FOR  
FISCAL YEAR 2016 REVISIONS TO C&I ENERGY EFFICIENCY PROGRAM –  
DIRECT INSTALL PROGRAM AND PROGRAM REVISIONS RELATED TO  
2015 BUILDING CODES  
DOCKET NO. QO15040477

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