



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center, Suite 801**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

CLEAN ENERGY

IN THE MATTER OF THE CUSTOMER ON-SITE ) ORDER  
RENEWABLE ENERGY (CORE) PROGRAM )  
REQUEST FOR EXTENSION OF REBATE )  
COMMITMENT DEADLINE: )  
ST. JOHN VIANNEY ) DOCKET NO. EG10030213

Mr. William Feraudo, Trustee, 81 Hunt Road, Freehold, New Jersey

St. John Vianney School, 540A Line Road, Holmdel, New Jersey 07733-1697

Marisa Slaten, DAG, Division of Law, Newark, New Jersey, on behalf of the Board of Public Utilities

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board of Public Utilities (Board) considers and renders its decision regarding a request from St. John Vianney (SJV or Petitioner) for an extension of its Customer Onsite Renewable Energy (CORE) Program rebate commitment deadline.

**BACKGROUND**

This matter relates to a request for an extension of time to complete a project for which a rebate commitment was made under the CORE program. The CORE program was designed to support the sustained and orderly development of markets for distributed renewable electric generation in New Jersey. The program offers financial incentives to New Jersey public utility customers investing in eligible, on-site renewable electricity generation using photovoltaic, wind, biomass, and fuel cell systems.

Saint John Vianney (SJV) is a non-profit, Catholic high school located in Holmdel, New Jersey. By letter dated October 22, 2008, the CORE Program Market Manager issued SJV a rebate commitment letter for a 297.024 kW solar system with an estimated rebate of \$245,000 and an expiration date of October 22, 2009.

The initial estimated rebate level was the result of a cap that the Board placed on certain applications, including non-profit applications, utilizing a PPA. I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2005-2008: 2008 Programs and Budgets: Compliance Filings, Docket Number EX04040276 (March 31, 2008). The cap limited rebates to 100 kW of installed capacity, which is the monetary equivalent of \$245,000. Id.

SJV solicited several firms to provide a Purchase Power Agreement (PPA) for the system. In late November 2008, Soltage, Inc. (Soltage) was selected. Soltage assured SJV that it could finance, own and operate the system. It engaged a company to design the system. In May 2009, after PPA and lease agreements had been negotiated, Soltage advised SJV that it could not finance the system or obtain acceptable Solar Renewable Energy Credit (SREC) commitments. Due to this unforeseen delay, SJV applied to the program manager for an extension of time to enter into a new PPA and complete construction. Pursuant to program guidelines, an extension of six months was granted, expiring April 22, 2010.

SJV identified another PPA provider, Solar Power Partners (SPP) in June of 2009. SJV represents that since it already had a preliminary system design, it requested that SPP analyze the financing documents and provide assurances that it could finance the project before serious negotiations were initiated. Once these assurances had been provided, the parties negotiated a PPA and lease agreement. Petitioner further alleges that it negotiated three year SREC contracts which were "ready for signature." In addition, SPP re-designed the system to achieve greater generation. Quotations were then solicited from installers prior to selection; Petitioner selected Advanced Solar Partners to install the system. This process lasted through January 2010.

Due to delays, Petitioner realized that the system would not be completed prior to the April 22, 2010 deadline. Petitioner requested a second extension from the Market Manager. The Market Manager had no authority to grant such an extension and, therefore, denied it. Pursuant to NJCEP procedures, SJV appealed the denial to the Program Coordinator, Applied Energy Group, Inc. As the Program Coordinator is not authorized to grant an extension in this case, this matter was denied on March 16, 2010. On March 23, 2010, this petition was filed, appealing the denial and requesting a further extension of time to complete the solar energy system.

### **STAFF RECOMMENDATION**

The CORE rebate level for applicants utilizing a PPA at the time of SJV's initial application was calculated using different rates for successive tiers of watts. Applying the then-existing rebate tiers to a project with a capacity of 297 kW, the potential rebate would have been in excess of half a million dollars. As a result of the cap discussed above, a project of this size would be limited to a rebate of \$245,000, as in the case of SJV.

After the Program Coordinator denied SJV's request for a second extension, SJV could have, but did not, apply for a Renewable Energy Incentive Program (REIP)<sup>1</sup> in April 2010. The rebate

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<sup>1</sup> The Board closed the CORE program to new private sector solar applications on December 20, 2007 and closed the CORE program to all public sector solar applications as of April 1, 2008. In the Matter of a Request to Suspend the Acceptance and Processing of New Solar Applications in New Jersey's Customer On-Site Renewable Energy (CORE) Rebate Program, Docket No. EO07100773 (Dec. 20, 2007) ("December 20th Order"). The successor program, Renewable Energy Incentive Program ("REIP") was instituted in 2009.

level for REIP has since declined to zero, reflecting changes in the solar marketplace and increases in the market-based incentives available to individuals installing solar energy systems.

The CORE Program Guidelines ("the Guidelines") state that all private projects over 10 kW in size will be given twelve calendar months, starting from the date on the rebate commitment letter, for project completion, which is defined as the date when the Program Manager receives the final rebate application. Customer On-site Renewable Energy (CORE) Program Update, 13 (Aug. 17, 2006). If the private entity cannot complete the project within the initial twelve month period, that private entity may apply for an extension. Ibid. The Guidelines state that the Program Manager will grant extensions when the applicant can document significant progress toward completion of the project and the delay was unavoidable and unforeseeable at the time of the rebate application. Id. at 13-14.

Petitioner's request for a second extension would require a waiver of the CORE Guidelines because the Guidelines do not permit second extensions. Customer On-site Renewable Energy (CORE) Program Update (Aug. 17, 2006). With respect to the St. John Vianney project, the available evidence supports the contention that the delay was unavoidable and unforeseeable and that significant progress has been made. After the abrupt withdrawal of its first financing partner, SJV was required to locate a new partner in June 2009. Petitioner required its new PPA provider to analyze the financing documents and provide assurances that it could finance the project before serious negotiations were initiated. The PPA and lease agreement were negotiated only after the completion of this process. In addition, SPP re-designed the system to achieve greater generation; only then were quotations solicited from installers and an installer selected. This process was not completed until January 2010. Petitioner further alleges that as of March 2010, it negotiated three year SREC contracts which were "ready for signature." Taken in their entirety, these unforeseen developments rendered Petitioner was unable to complete the project by the end of the initial 6-month extension.

In addition, in its communications with Staff, Petitioner has stated several times that it is in possession of a signed PPA with Solar Power Partners, which has informed Petitioner that the project has been registered with the NJCEP. Petitioner has also stated that it anticipates the start of construction in or around May 2011.

Based on these facts, Staff negotiated a new rebate commitment with Petitioner, subject to Board approval, in the amount of \$245,000. Accordingly, Staff recommends the Board to issue a new CORE commitment letter for a rebate of \$245,000.

### **DISCUSSION AND FINDINGS**

Petitioner's request for a second extension would require a waiver of the CORE Guidelines. Customer On-site Renewable Energy (CORE) Program Update (Aug. 17, 2006). A request for waiver must be considered under N.J.A.C. 14:1-1.2(b)(1), which requires the Board to determine whether waiver is in accord with the general purpose and intent of its rules, and whether strict compliance with the rules would be adverse to public policy.

Petitioner's project is consistent with the general purpose and intent of the CORE Guidelines. A trustee for Petitioner has repeatedly enquired of various Board staff as to the status of its petition since the time of filing its request for a second extension. Petitioner's trustee has provided information when asked, and Petitioner has continued to pursue construction of its solar energy project, as permitted. As noted by Staff, Petitioner has stated that it anticipates

the start of construction in or around May 2011. The appeals process tolls the time for completing the project until the Board takes appropriate action.


Further, Petitioner has represented that it had, at the time of its extension request, shown substantial progress towards completion. SJV stated that it had identified another PPA provider; negotiated a PPA and lease agreement; negotiated three year SREC contracts which were "ready for signature;" and that SPP had re-designed the system to achieve greater generation and solicited quotations from installers prior to selection. Considering petitioner's project, strict compliance with the CORE Guidelines would be adverse to the public interest.

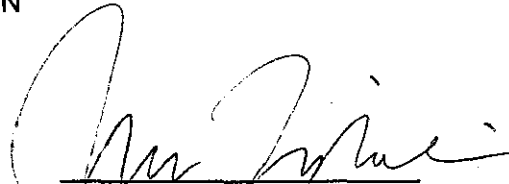
Based on the facts and circumstances as described herein, above, Staff negotiated a settlement with Petitioner and Petitioner accepted. Considering the size of Petitioner's project, the effect of the cap on the initial rebate award, the continued solar construction, and the tolling period, the Board **FINDS** that Staff has recommended an equitable settlement. The Board **CONCLUDES** that a rebate of \$245,000, as negotiated between Petitioner and Staff, is a reasonable settlement and is consistent with relevant policy considerations. The Board **HEREBY APPROVES** the settlement negotiated by Staff with St. John Vianney (MM# 05145) and the extension of the CORE program rebate commitment deadline. The Board **DIRECTS** the Market Manager to issue an extension letter with a new rebate commitment deadline, which shall be six months from the date of the extension letter. The Board **DIRECTS** the Market Manager to issue a CORE rebate of \$245,000 to St. John Vianney, upon satisfactory completion of the project in accordance with the extended deadline and all other applicable CORE Program requirements.


DATED: 3/30/11

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

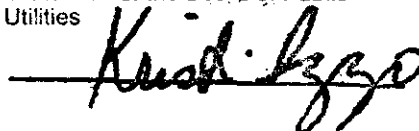
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

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



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ST. JOHN VIANNEY

Docket No. EG10030213

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