

Agenda Date: 1/29/14 Agenda Item: 8F

STATE OF NEW JERSEY Board of Public Utilities 44 South Clinton Avenue, 9th Floor Post Office Box 350 Trenton, New Jersey 08625-0350 www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE CLEAN ENERGY PROGRAMS AND BUDGET FOR FISCAL YEAR 2014))	ORDER
REVISED FISCAL YEAR 2014 BUDGET AND)	
DELEGATION OF LIMITED BUDGET AUTHORITY))	DOCKET NO. EO13050376V

Parties of Record:

Joe Gennello, Honeywell Utility Solutions Diane Zukas, TRC Energy Services Michael Ambrosio, Applied Energy Group Mark Mader, Jersey Central Power & Light Timothy White, Atlantic City Electric Scott Markwood, Orange & Rockland Utilities Bruce Grossman, South Jersey Gas Company Susan Ringhof, Public Service Electric and Gas Company Tracey Thayer, New Jersey Natural Gas Mary Patricia Keefe, Elizabethtown Gas Company Stefanie A. Brand, Esq., Director, Rate Counsel

SERVICE LIST ATTACHED

BY THE BOARD¹:

This Order memorializes action taken by the Board of Public Utilities (Board) at its January 22,

¹ Commissioner Holden left the meeting before Staff's presentation of this agenda item, but indicated prior to her departure that she intended to vote by proxy in support of Staff's recommendation. However, Staff's recommendation concerning the delegation of limited budget authority was amended from the bench after Commissioner Holden's departure. Therefore, in an abundance of caution, her proxy was not used.

2014 public meeting, where the Board considered revisions to the Fiscal Year 2014 (FY14) budget for New Jersey's Clean Energy Program (NJCEP) and the delegation of authority to the Director of the Division of Economic Development and Energy Policy to make limited modifications to NJCEP budgets.²

Background and Procedural History

By Order dated December 18, 2013, Docket No. EO13050376V, the Board approved revisions to the FY14 NJCEP program and budgets. In this Order the Board will consider additional changes to the FY14 NJCEP budget proposed by TRC, the C&I Market Manager. The December 18, 2013 Order also discussed Staff's request for the delegation of authority to Staff to make limited modifications to NJCEP budgets. The Board also considers this issue further in this Order.

Proposed Changes to NJCEP FY14 Budget

By Order dated December 19, 2013, Docket No. EO130503076V, the Board adopted revised FY14 budgets for the NJCEP. Based on recent market activity, TRC is proposing a number of changes the C&I EE program budgets approved by the Board in its December 19th Order. The proposed changes to the budgets are primarily based on higher than anticipated participation levels in certain programs, as discussed in more detail below.

TRC is proposing to increase the budgets for the following programs:

- C&I Retrofit: TRC is proposing to transfer \$4 M to the C&I Retrofit program which would increase the budget from \$46,293,828.21 to \$50,293,828.21. Monthly commitments and expenditures are averaging higher than historic norms and current expenditures and commitments equal 85% of the FY14 budget.
- Pay-for-Performance New Construction: TRC is proposing to transfer \$3 M to the Payfor-Performance New Construction program which would increase the budget from \$7,265,275.46 to \$10,265,275.21. The Pay-for-Performance New Construction program has experienced a higher than anticipated level of participation. Current expenditures and commitments equal 92% of the FY14 budget, with projects that are currently pending Board approval utilizing the remainder of the FY14 budget.
- *Direct Install:* TRC is proposing to transfer \$3.25 M to the Direct Install program which would increase the budget from \$36,244,603.07 to \$39,494,603.07. Monthly commitments and expenditures are averaging higher than historic norms and current expenditures plus commitments equal 79% of the FY14 budget.

TRC is proposing to decrease the budgets for the following programs:

- Pay-for-Performance: TRC is proposing to reduce the Pay-for-Performance program budget by \$6 M from \$51,952,273.75 to \$45,952,273.75. TRC anticipates that sufficient funds will remain in the program to meet anticipated program demand through the remainder of the fiscal year. Current expenditures plus commitments equal 60% of the budget and new applications received in late FY14 may not be committed until FY15, due to longer lead times required for approval of large projects.
- Local Government Energy Audit: TRC is proposing to reduce the Local Government Energy Audit program budget by \$1 M from \$3,345,759.50 to \$2,345,759.50. TRC anticipates that sufficient funds will remain in the program to meet anticipated program

² The budgets approved in this Order are subject to State appropriations law.

demand through the remainder of the fiscal year. The current participation rate is lower than anticipated and a number of project commitments have cancelled due to inactivity.

 Large Energy Users Program: TRC is proposing to reduce the Large Energy Users Program budget by \$2 M from \$30,853,781.83 to \$28,853,781.83. Several projects from previous program years have cancelled and to date, TRC has experienced lower than anticipated participation rates. TRC anticipates that sufficient funds will remain in the program to meet anticipated program demand through the remainder of the fiscal year.

Transfer funds from NJCEP Administration

 TRC anticipates that the overall C&I EE budget will be below the level needed to meet anticipated program demands. Therefore, based on discussions with OCE Staff, TRC has requested a transfer of \$1.25 M from the Program Transition budget within the NJCEP Administration budget to the C&I EE budget. This would reduce the Program Transition budget from \$2,500,000.00 to \$1,250,000.00. These funds are no longer necessary in FY14 as the timeline for awarding the contract for a new Program Administrator has been delayed.

The following tables summarize the proposed changes discussed above:

	Revised FY14 Budget From 12/19/13 Board Order	Line Item Transfers	2nd Revised FY14 Budget
	(a)	(b)	(c)=(a)+(b)
Energy Efficiency Programs	\$303,014,392.03	\$1,250,000.00	\$304,264,392.03
CHP-Fuel Cells	\$37,964,525.92	\$0.00	\$37,964,525.92
Renewable Energy Programs	\$20,311,137.42	\$0.00	\$20,311,137.42
EDA Programs	\$31,367,385.35	\$0.00	\$31,367,385.35
NJCEP Administration	\$12,635,232.71	(\$1,250,000.00)	\$11,385,232.71
TRUE Grant	\$12,793,600.21	\$0.00	\$12,793,600.21
Total	\$418,086,273.64	\$0.00	\$418,086,273.64

2nd Revised FY14 NJCEP Budget

	Revised FY14 Budget From 12/19/13 Board Order	Line Item Transfers	2nd Revised FY14 Budget
Programs	(a)	(b)	(c)=(a)+(b)
Residential EE Programs			
Residential HVAC - Electric & Gas	\$13,730,768.98		\$13,730,768.98
Residential New Construction	\$18,910,092.90		\$18,910,092.90
Energy Efficient Products	\$18,256,232.84		\$18,256,232.84
Home Performance with Energy Star	\$36,862,091.99		\$36,862,091.99
Residential Marketing	\$1,309,984.00		\$1,309,984.00
Sub Total Residential	\$89,069,170.71	\$0.00	\$89,069,170.71
Residential Low Income			
Comfort Partners	\$35,102,473.20	\$0.00	\$35,102,473.20
C&I EE Programs			
C&I New Construction	\$1,812,226.30		\$1,812,226.30
C&I Retrofit	\$46,293,828.21	\$4,000,000.00	\$50,293,828.21
Pay-for-Performance New Construction	\$7,265,275.46	\$3,000,000.00	\$10,265,275.46
Pay-for-Performance	\$51,952,273.75	(\$6,000,000.00)	\$45,952,273.75
Local Government Energy Audit	\$3,345,759.50	(\$1,000,000.00)	\$2,345,759.50
Direct Install	\$36,244,603.07	\$3,250,000.00	\$39,494,603.07
Marketing	\$1,075,000.00		\$1,075,000.00
Large Energy Users Program	\$30,853,781.83	(\$2,000,000.00)	\$28,853,781.83
Sub Total C&I	\$178,842,748.12	\$1,250,000.00	\$180,092,748.12
Total Energy Efficiency	\$303,014,392.03	\$1,250,000.00	\$304,264,392.03

2nd Revised FY14 Energy Efficiency and CHP-FC Program Budget

CHP-Fuel Cell Program

\$37,964,525.92	\$0.00	\$37,964,525.92
	\$37,964,525.92	\$37,964,525.92 \$0.00

	Revised FY14 Budget From 12/19/13 Board Order	Line Item Transfers	2nd Revised FY14 Budget
	(a)	(b)	(c)=(a)+(b)
Administration and Overhead			
OCE Staff and Overhead	\$3,076,659.54		\$3,076,659.54
Program Coordinator	\$1,862,870.58		\$1,862,870.58
Sub-Total: Administration and Overhead	\$4,939,530.12	\$0.00	\$4,939,530.12
Memberships-Dues			
Sponsorships	\$100,000.00		\$100,000.00
Sub-Total: Memberships-Dues	\$100,000.00	\$0.00	\$100,000.00
Evaluation and Related Research			
Rutgers-CEEEP	\$1,884,236.87		\$1,884,236.87
Funding Reconciliation	\$52,545.00		\$52,545.00
Other Studies	\$0.00		\$0.00
Program Evaluation	\$2,000,000.00		\$2,000,000.00
Sub-Total: Evaluation and Related Research	\$3,936,781.87	\$0.00	\$3,936,781.87
Miscellaneous			
Outreach and Education/Community Partner Grants	\$62,562.78		\$62,562.78
Clean Energy Business Web Site	\$60,000.00		\$60,000.00
Sustainable Jersey	\$1,001,357.94		\$1,001,357.94
DCA RE Firefighter Training	\$35,000.00		\$35,000.00
Program Transition	\$2,500,000.00	(\$1,250,000.00)	\$1,250,000.00
Sub-Total: Miscellaneous	\$3,658,920.72	(\$1,250,000.00)	\$2,408,920.72
TOTAL: NJCEP Administration	\$12,635,232.71	(\$1,250,000.00)	\$11,385,232.71

2nd Revised FY14 NJCEP Administration Budget

The RE, EDA and True Grant budgets remain unchanged from the December 19, 2013 revised budget order.

On or about December 31, 2013 Staff circulated a request for comments on the proposed budget revisions to the EE and RE Committees and posted the request on the NJCEP web site. Staff also discussed the proposed changes at the January 14, 2014 meetings of the EE and RE Committees.

Summary of Comments

Rate Counsel submitted written comments on the proposed revisions to the NJCEP budget. Based on the representations of the OCE and TRC, Rate Counsel indicated that it does not object to the proposed transfers and budget changes.

In the request for comments summarized in the December 19, 2013 order, stakeholders were asked to comment on the concept of whether the Board should delegate authority to staff to make limited budget modifications. The Board received comments in support of such delegation and did not receive any criticism. Those comments are summarized in the December 19th order and are incorporated here by reference.

OCE Recommendations

Staff has reviewed the proposed revisions to the NJCEP budget and the comments submitted regarding the proposed changes. Staff believes that the proposed budget revisions are reasonable and will allow the programs to continue through the remainder of the fiscal year,

without negatively impacting the programs from which funds are being transferred. Therefore, Staff recommends approval of the budget revisions proposed by TRC.

Delegation of Limited Authority

To address concerns that existed in 2012, the Board, by Order dated November 20, 2012, Docket Nos.EO07030203 and EO11100631V, delegated OCE Staff authority to make limited modifications to NJCEP Program Budgets, provided certain conditions were met. Staff's authority under that delegation expired on June 30, 2013. Staff's ability to make minor adjustments to the NJCEP budget improved the agency's capacity to respond quickly to meet changes in program participation rates. The delegation was administrative in nature and improved the overall efficiency of the budget modification process. The NJCEP is currently faced with a similar set of circumstances that warrants consideration of re-instating limited authority for OCE staff to modify NJCEP Budgets.

Staff is proposing that the Board authorize the Director of the Division of Economic Development and Energy Policy (Director) to make limited modifications to the NJCEP Budget, provided the conditions set out in the attached Delegation of Limited Budget Authority are met. The conditions are intended to provide the staff person to whom Program Budget modification authority has been delegated with the ability to move funds in a manner that does not materially diminish any Program and that prevents the need to temporarily shut down a Program, while also providing the Board with appropriate oversight of any modifications made by Staff.

Discussion and Findings

The Board has reviewed the proposed revisions to the NJCEP FY14 budget. The Board <u>FINDS</u> that the process utilized in developing the proposed revisions to the FY14 budget was appropriate and provided stakeholders and interested members of the public the opportunity to comment. The Board concurs with Staff's recommendation and <u>FINDS</u> that the proposed budget revisions will allow beneficial programs to continue to operate through the remainder of the fiscal year without negatively impacting the programs from which funds are being transferred. Therefore, the Board <u>HEREBY APPROVES</u> the revised FY14 NJCEP budgets recommended by Staff in the tables above and approves the revised compliance filings submitted by TRC and by the OCE dated January 10, 2014.

Concerning the proposed delegation of authority, the Board <u>FINDS</u> that it is reasonable and appropriate. Staff has proposed a process that streamlines the process to modify the NJCEP budget. In part, Staff's proposal includes: 1) a 10% cap on the amount a Program Budget can be reduced within any sixty day period of time; 2) a 25% cap on the amount a Program Budget can be reduced within any 180-day period of time; 3) a prohibition on transferring funds from one Funding Category to another; 4) notice to the public and opportunity for comment; and 5) reporting requirements. The terms of the delegation are narrow, specific, and clearly define the limits of the authority.

The Board **FINDS** that Staff's proposal, as set forth in the attached <u>Delegation of Limited</u> <u>Budget Authority</u>, is specific, properly limited in scope, and reasonable. The Board also **FINDS** that the proposed delegated authority is administrative in nature and is not intended to give Staff authority to materially diminish any program. Therefore, the Board <u>HEREBY</u> <u>AUTHORIZES</u> the Director of the Division of Economic Development and Energy Policy to exercise delegated authority consistent with the terms of this Order and subject to Board ratification.

The effective date of this Order is February 14, 2014.

DATED: 2/4/14

BOARD OF PUBLIC UTILITIES By:

DIANNE⁾SOLOMON PRESIDENT

NNE M. FOX COMMISSIONER

Arilyhui

JOSEPH L. FIORDALISO

ATTEST: KRISTI IZZO SECRETARY

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

DELEGATION OF LIMITED BUDGET AUTHORITY

The Board of Public Utilities approved the following delegation of authority in the matter captioned IN THE MATTER OF THE CLEAN ENERGY PROGRAMS AND BUDGET FOR FISCAL YEAR 2014, REVISED FISCAL YEAR 2014 BUDGET AND DELEGATION OF LIMITED BUDGET AUTHORITY, Docket No. EO13050376V, effective February 14, 2014.

Definitions

The following definitions shall apply to this delegation. If any of the definitions contained herein are inconsistent with defined terms within the applicable Budget order, the definition in the Budget order shall govern.

"Funding Category" includes the five funding categories set forth in the prevailing Comprehensive Energy Efficiency and Energy Renewable Resource Analysis (CRA). In the 2014-17 CRA,³ these funding categories are: EE, CHP-FC, RE, EDA, and NJCEP Administration.

"Programs" shall include all Programs identified within the EE, CHP-FC, RE, EDA and NJCEP Administration Funding Categories, which have been Board approved and which are contained within the Board approved compliance filings. A non-exhaustive list of Programs within the EE, CHP-FC, RE, and EDA Funding Categories, is provided below.

- EE Funding Category (includes Residential and Commercial and Industrial (C&I) sectors): Residential HVAC, Home Performance with Energy Star, C&I New Construction, Pay for Performance, Large Energy Users Program, etc.
- CHP-FC Funding category: Large and Small CHP-Fuel Cell Programs.
- RE Funding Category: Renewable Energy Incentive Program, Renewable Energy: Grid Connected, Offshore Wind, etc.
- EDA Funding Category: Clean Energy Manufacturing Fund, Edison Innovation Green Growth Fund, etc.
- NJCEP Administration Funding Category: the term "Programs" shall be limited to nonadministrative line items whose primary purpose is to provide grants and other financial assistance. Examples of non-administrative line items include DCA RE Firefighting Training and Sustainable Jersey.⁴

"Program Budget" is the most recently Board-approved, overall budget for each Program. Each Program Budget is comprised of line items, including but not limited to, administration, rebates and financial incentives, and rebate processing. The line items within each Program Budget appear in the Board-approved compliance filings.

If a term exists within a relevant budget order that is not contained in this definition section, the staff person to whom Program Budget modification authority has been delegated shall interpret that term consistent with the budget order and shall promptly advise the Board how such term is being interpreted.

⁴ <u>See</u> In The Matter of Comprehensive Energy Efficiency And Renewable Energy Resource Analysis For Fiscal Years 2014-2017 Clean Energy Program: FY 2014 Programs and Budget, Docket No. EO13050376V (June 21, 2013).

³ In The Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis For Fiscal Years 2014 - 2017 Clean Energy Program, Docket No EO11050324V (June 21, 2013).

General Description of Authority and Limitations on Delegated Authority

The Director of the Division of Economic Development and Energy Policy is authorized to make limited modifications to the NJCEP budget, consistent with the authority and limitations set forth below. The Director may sub-delegate such authority to the Assistant Director of the Division of Economic Development and Energy Policy upon five (5) days written notice to the Board. No other delegations are permitted without express Board approval.

A. Permissible Transfers: Generally

- 1. Funds may be transferred among all of the Programs within a given Funding Category.
- 2. Funds may be transferred within line items in a Program Budget.
- 3. Funds may not be transferred between differing Funding Categories without Board approval.
- 4. The value, number, and frequency of permissible transfers are subject to the rules set forth below.

B. Limits on Value, Number, and Frequency of Transfers

- A Program Budget may be reduced if the Program is under-performing; and 100% of the Program Budget reduction must be simultaneously transferred to another Program(s). A Program is under-performing if, after a review of commitments, Program goals, participation levels, performance trends, and other relevant factors, it appears unlikely that the Program will exhaust its budget.
- An under-performing Program budget may be reduced by up to 10% at once. A Program budget may not be reduced by more than 10% within any 60-day period of time.
- 3. A Program shall not be reduced by more than 25% within any 180-day period of time.
- 4. If making adjustments to a line item within a specific Program Budget and not transferring funds from that one Program Budget to another Program Budget, the following applies:
 - a. A line item may be reduced by up to 10% at once.
 - b. A line item may not be reduced by more than 10% within any 60-day period of time or by more than 25% within any 180-day period of time.
 - c. 100% of the amount of the line item reduction must be simultaneously transferred to another line item.
 - d. No modification shall be made to any line item if such modification would require a contract modification or approval from the Department of the Treasury.

C. Special Rules concerning Comfort Partners

- 1. As of the date of this delegation, Comfort Partners is the only Program that is administered by the utilities. The utilities jointly manage the Program and share costs and administrative responsibilities. The following rules apply to the Comfort Partners Program, notwithstanding anything in this document to the contrary.
 - a. Funds may be reallocated between utilities and line items within the Program Budget provided the overall Board-approved Comfort Partners Program Budget remains unchanged, and the overall statewide administrative costs for the Comfort Partners Program are not increased.

- b. Up to 10% of the Comfort Partners Program Budget may be reallocated within the Program during any 60-day period of time.
- c. If the Comfort Partners Program is under-performing, as defined in paragraph B(1), the Program Budget may be reduced. Program Budget reductions shall be limited to 10% within any 60-day period of time. The Program Budget shall not be reduced by more than 25% within any 180-day period of time.

D. Notice and Process for Budget Modifications

- 1. Staff must provide a written notice to each Commissioner at least seven days prior to implementing any Budget modifications. The notice must include the following information:
 - a. The Program(s) funds that will be transferred to and from
 - b. The amount of the transfer and what percentage of the Program Budget the transfer represents.
 - c. The reason for the transfer
 - d. The date of the last transfer to and/or from the Program
 - e. Any other relevant information (i.e. application of new terms that do not otherwise fit within the definitions)
- Concurrent with notifying Commissioners, Staff shall post notice of any Program Budget modification on the NJCEP web site and circulate the notice to the EE and RE Committee electronic distribution list and allow the public at least seven days for comments on such modifications.
- 3. Staff shall report on its delegated activity to the Board during the public session of any agenda meeting at which the Board considers the Budget. Staff's presentation shall include responses to comments received pursuant to paragraph D(2) and any other relevant information. At a minimum, staff shall report on its delegated activity twice per year:
 - a. During the Board's consideration of the fiscal year Budget; and
 - b. During the Board's consideration of the true-up Budget.

IN THE MATTER OF THE CLEAN ENERGY PROGRAMS AND BUDGET FOR FISCAL YEAR 2014: REVISED FY14 BUDGET AND DELEGATION OF LIMITED BUDGET AUTHORITY DOCKET NO. E013050376V

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