

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW JERSEY BOARD OF PUBLIC UTILITIES
AND
THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this 23 day of October 2018 by and between the **NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS** (“DCA” or “Department”) and the **NEW JERSEY BOARD OF PUBLIC UTILITIES** (“BPU” or “Board”) through its Office of Clean Energy (“OCE”) (collectively, the “Parties”) setting forth the roles and responsibilities of the Parties in connection with the BPU New Jersey Comfort Partners Program (“Comfort Partners”) / DCA Weatherization Assistance Program (“WAP”) Partnership (“Partnership”). The Parties are both instrumentalities of the State of New Jersey.

BACKGROUND:

WHEREAS, the BPU is charged with the authority to ensure that safe, adequate, and reliable utility services are provided at reasonable, non-discriminatory rates to all members of the public who desire such services and to develop and regulate a competitive, economically cost-effective energy policy that promotes responsible growth and clean renewable energy sources while maintaining a high quality of life in New Jersey; and

WHEREAS, pursuant to the Electric Discount and Energy Competition Act of 1999, N.J.S.A. 48:3-49 et seq., the BPU created the New Jersey Clean Energy Program (“NJCEP”) to promote energy efficiency and renewable energy programs by offering financial incentives, programs, and services to New Jersey residents, business owners, and local governments.

WHEREAS, NJCEP and New Jersey investor-owned electric and natural gas utility companies have joined together in the New Jersey Comfort Partners Program to help income-qualifying families and individuals to save energy and money by making their homes more energy efficient through direct installation of cost-effective energy efficiency measures, comprehensive and personalized customer energy education and counseling, and installation of health and safety measures as appropriate. Comfort Partners is jointly managed statewide by Atlantic City Electric,

Elizabethtown Gas, Jersey Central Power & Light, New Jersey Natural Gas, Public Service Electric & Gas, and South Jersey Gas, which comprise the Comfort Partners Utility Working Group and work with prime service delivery contractors and subcontractors to install measures and a third-party quality control inspector to conduct audits. Utilities with overlapping service territories jointly deliver efficiency, health and safety, and education services so that customers receive both gas and electric measures simultaneously. Participating utilities share selection of program delivery contractors and program delivery costs.

WHEREAS, the DCA was created to provide administrative guidance, financial support, and technical assistance to local governments, community development organizations, businesses, and individuals to improve the quality of life in New Jersey. DCA offers a wide range of programs and services that respond to issues of public concern, including fire and building safety, housing production, community planning and development, and local government management and finance.

WHEREAS, in accordance with U.S. Department of Energy regulations for the Weatherization Assistance Program for Low-Income Persons, 10 C.F.R. § 440 (2006), DCA has established a Weatherization Assistance Program within its Division of Housing and Community Resources' Office of Low-Income Energy Conservation ("OLIEC") to aid low-income households, with an emphasis on those who are high-energy users, have a high energy burden, and are elderly or disabled, in order to decrease fuel consumption and related energy costs. OLIEC contracts with a network of non-profit organizations ("WAP Agencies") to provide weatherization services to their respective communities. WAP Agencies must follow program rules and regulations as outlined in the most current State Plan, Weatherization Assistance Program Policy

and Procedures Manual, New Jersey Field Guide Standard Work Specifications (aligned edition), 10 C.F.R. § 440 (2006), and Weatherization Program Notices.

WHEREAS, WAP services include energy audits and direct installation of energy efficiency measures, including building envelope measures and heating system improvement measures. WAP also offers health and safety corrections necessary to effectively perform weatherization or those needed to avoid worsening health and safety conditions as a result of weatherization.

WHEREAS, Comfort Partners and WAP currently refer customers between the two programs for measures outside the scope of a given program. The partnership agreed to herein will expand that relationship to allow for a coordinated approach that delivers program-related services to customers who otherwise would have not been served in a comprehensive fashion by either of the two programs individually. Both programs are frequently prevented from installing major energy saving measures in customer homes due to budget constraints and/or severe health and safety barriers. Often, the customers that are in most need of the important work the two programs perform are the same customers that receive the least program related services due to the challenges their homes present.

WHEREAS, both Comfort Partners and WAP serve a similar subset of the New Jersey population and share a common goal of reducing the energy burden for low-income customers who spend a disproportionate amount of their income on energy costs. The programs have a similar approach in the way they educate, assess, and install measures for New Jersey low-income residents.

WHEREAS, these common program goals and methodologies provide a unique opportunity to leverage resources, funding, and capabilities for the purposes of more comprehensively and efficiently serving customers.

WHEREAS, a complementary relationship will increase effectiveness of program-related services.

NOW THEREFORE, in consideration of the promises and mutual representations, warranties, and covenants herein contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

I. SCOPE OF THE MOU

This MOU defines the framework and conditions under which the Parties intend to establish a cooperative relationship to the mutual benefit of the Parties and the residents of New Jersey. As detailed below, the Parties will oversee the Comfort Partners and WAP programs to ensure cooperation of the participants and that the projects are completed in accordance with the prevailing Comfort Partners Guidelines and WAP Policy Manual. The terms and conditions included herein represent the entire scope of this agreement and supersede all former representations whether written or verbally communicated.

II. DUTIES OF THE PARTIES

1. BPU and OCE Staff will facilitate and oversee participation by the Comfort Partners Utility Working Group and ensure that partners complete projects in accordance with the prevailing Comfort Partners Procedures Manual.

2. DCA will facilitate and oversee participation by WAP Agencies and ensure that the Agencies implement the program in accordance with the prevailing Chapter 9 of the WAP Policy Manual.

3. The Parties will meet semi-annually, or more frequently as needed, with the Comfort Partners Utility Working Group and WAP Agencies to discuss the status of the programs.

4. The Comfort Partners Utility Working Group will submit Annual Compliance filings applicable to the Comfort Partners Program in support of annual funding requests to the Board of Public Utilities.

5. The Parties will report to the BPU and DCA at least semi-annually on program performance and progress to date.

III. DESIGNATED REPRESENTATIVES

Written communication between the Parties for the purpose of this MOU as defined above shall be delivered to the following representatives:

New Jersey Board of Public Utilities
Attn: Comfort Partners Program Administrator
44 S. Clinton Avenue
Trenton, NJ 08625

New Jersey Department of Community Affairs
Division of Housing and Community Resources
Attn: WAP Supervisor
P.O. Box 806
101 S. Broad Street
Trenton, NJ 08625

IV. MISCELLANEOUS

A. Subject to the Availability of Funds. All obligations of the Parties pursuant to this MOU are subject to appropriations and the availability of funds. A failure by the Parties to perform any condition on its part to be performed under this MOU as a result of the failure of the Legislature to appropriate funds or funds to be granted by the U.S. Department of Energy and the U.S. Department of Health and Human Services shall not in any manner constitute a breach or default by the Parties.

B. No Personal Liability. No official or employee of BPU shall be charged personally by DCA, its employees, agents, contractors, or subcontractors with any liability or held liable to DCA, its employees, agents, contractors, or subcontractors under any term or provision of this MOU or because of its execution or attempted execution or because of any breach or attempted or alleged breach of this MOU.

No official or employee of DCA shall be charged personally by BPU, its employees, agents, contractors, or subcontractors with any liability or held liable to BPU, its employees, agents, contractors, or subcontractors under any term or provision of this MOU or because of its execution or attempted execution or because of any breach or attempted or alleged breach of this MOU.

C. Captions. The captions appearing in this MOU are inserted and included solely for convenience and shall not be considered or given effect in construing this MOU, or its provisions, in connection with the duties, obligations, or liabilities of the Parties or in ascertaining intent, if a question of intent arises. The preambles are incorporated into this paragraph as though set forth in verbatim.

D. Entirety of Agreement. This MOU represents the entire and integrated agreement between the Parties and supersedes any and all prior agreements or understandings (whether or not in writing). No modification or termination hereof shall be effective unless in writing and approved as required by law.

E. Amendments. This MOU may be amended by the written request of any Party and with the consent of the other Party as needed for the success of the Partnership. Any proposed amendment of this MOU shall be submitted by one Party to the other Party at least five (5) business days prior to formal discussion or negotiation of the issue. Any agreement amendment of this

MOU shall be set forth in writing and signed by an authorized representative of each Party in order to become effective.

F. No Third-Party Beneficiaries. This MOU does not create in any individual or entity the status of third-party beneficiary, and this MOU shall not be construed to create such status. The rights, duties, and obligations contained in this MOU shall operate only between the Parties and shall inure solely to the benefit of the Parties. The provisions of this MOU are intended only to assist the Parties in determining and performing their obligations under this MOU. The Parties intend and expressly agree that only the Parties shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this MOU, or to bring any action for breach of this MOU.

G. No Assignment. This MOU shall not be assignable, but shall bind and inure to the benefit of the Parties hereto and their respective successors.

H. Governing Law. This MOU and the rights and obligations of the Parties shall be interpreted, construed, and enforced in accordance with the laws of the State of New Jersey. This MOU shall be subject to all the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. Any claims asserted against the State in connection with this MOU shall be subject to the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. It is acknowledged by both Parties that the Parties are covered by the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. and the New Jersey Tort Claims Fund.

I. Authority. By execution of this MOU, the Parties represent that they are duly authorized and empowered to enter into this MOU and to perform all duties and responsibilities established in this MOU.

J. Term. This MOU shall be effective as of the date hereinabove written and, unless terminated as set forth below, shall remain in effect for a term of five (5) years.

K. Termination. Board Staff and Department Staff may terminate this MOU upon thirty (30) days' written notice. The Parties shall consult on the conditions of the termination, including the date on which the termination shall take effect.

L. Counterparts. This MOU may be executed in duplicate parts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

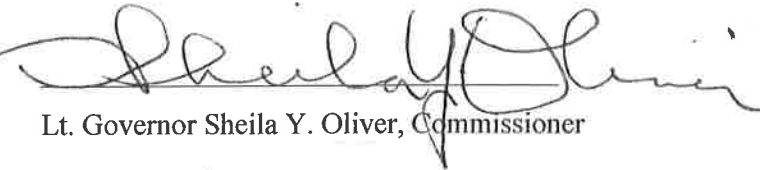
[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the Parties have signed this Memorandum of Understanding on the date first written above.

Witness:



New Jersey Department of Community Affairs

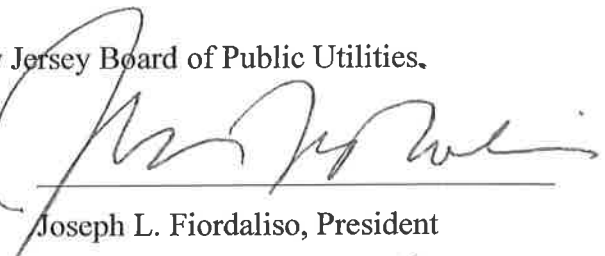
By: 
Lt. Governor Sheila Y. Oliver, Commissioner

Dated: 10/23/18

Witness:



New Jersey Board of Public Utilities.

By: 
Joseph L. Fiordaliso, President

Dated: 10/23/18

APPROVED AS TO FORM:

Gurbir S. Grewal

Attorney General, State of New Jersey

By: 
Andrew Kuntz

Deputy Attorney General

Dated: 10/23/18