



Agenda Date: 9/12/07
Agenda Item: 8A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CLEAN ENERGY

IN THE MATTER OF THE CLEAN ENERGY PROGRAM)
PILOT PHOTOVOLTAIC POWER SYSTEM PROGRAM -)
REQUEST FOR AN EXTENSION BY THE)
NEW JERSEY SCHOOL DEVELOPMENT AUTHORITY)

ORDER

DOCKET NO. EO07080595

(ATTACHED SERVICE LIST)

BY THE BOARD:

The New Jersey School Development Authority¹ (NJSDA) is seeking certain modifications to existing Memoranda of Understanding (MOUs) among the NJSDA, the Board of Public Utilities (Board) and Elizabeth, Neptune and Phillipsburg school districts (Abbot Districts) to complete the Abbot Districts' obligations under a Board-approved pilot program for the installation of photovoltaics in buildings belonging to the Abbot Districts. See I/M/O Comprehensive Resource Analysis Implementation: Pilot Photovoltaic System Program, Non-Docketed Matter, (December 19, 2002) (Pilot Order). Board approval of new MOUs, incorporating modifications to some of the terms and conditions of the 2004 documents, is necessary for such an extension to be granted.

BACKGROUND

On February 9, 1999, the Electric Discount and Energy Competition Act N.J.S.A. 48:3-49 et seq. was signed into law. N.J.S.A. 48:3-60 a(3) of the Act provides that the Board shall initiate a proceeding and undertake a comprehensive resource analysis (CRA) of energy programs, including an assessment of existing market barriers to the implementation of energy efficiency and renewable technologies that are not or cannot be delivered to customers through a competitive marketplace. After concluding its first CRA proceeding, the Board issued an initial comprehensive resource analysis order, dated March 9, 2001, Docket Nos. EX99050347 et al. (the March 9th Order). The March 9th Order approved incentives for renewable energy projects that supply electricity directly to the customer. These incentives were to be delivered through the Customer-Sited Clean Generation Program (CSCG).² On April 9, 2001, the Board issued a

¹ Formerly the New Jersey Schools Construction Corporation

² Now the Customer On-site Renewable Energy (CORE) Program.

compliance filing order that allocated \$16.5 million dollars of the societal benefits charge monies collected by utilities from ratepayers for the CSCG, which includes wind, biomass and photovoltaic systems.

The State Energy Program (SEP) is funded by the USDOE and provides monies to the State to design and carry out its own energy efficiency and renewable energy programs. A State Energy Plan is submitted yearly to the USDOE for approval of the State's initiatives. The 2002-2003 SEP plan was filed on June 1, 2002 and received approval in August of 2002.

On July 18, 2000, the New Jersey Educational Facilities Construction and Financing Act (the "Act") was signed into law. The Act envisions the investment of \$8.6 billion in public school construction in New Jersey over the next decade, including full funding by the State of all school renovation and construction projects in the thirty Abbott school districts.³

In furtherance of its policy of promoting and facilitating the implementation of renewable generation technologies, the Board approved a pilot program for the installation of photovoltaics on buildings located in several Abbott school districts that are funded by the Act. In this Order, the Board approved the use of \$1 million of CSCG funds, in conjunction with monies previously approved for this purpose through the State Energy Program, for the design and installation of PV systems on four new buildings being constructed in Abbott school districts. These systems were to incorporate the guidelines developed by the U.S Green Building Council known as "Leadership in Energy and Environmental Design" ("LEED") Version 2.0. Executive Order No. 24 (July 29, 2002). The LEED Green Building Rating System is a voluntary, consensus based national standard for new construction and renovation, a point rating system for the environmental, energy and sustainability attributes of the building rated. LEED offers several certification levels, including "Basic" and "Silver."

Pursuant to the Pilot Order, the Board entered into MOUs with the former New Jersey School Construction Corporation (NJSCC) and four Abbott School Districts to implement the Pilot Photovoltaic Power System Program (Pilot PV Program) in August 2004. At this time, photovoltaic systems have been installed in the Newark and Phillipsburg districts, but neither has yet been certified as having achieved the LEED Silver rating. The Neptune District has completed design work but not installation of the photovoltaic system, which is now expected to be finished by September 2008. The Elizabeth District has terminated its participation in the program and its MOU is no longer in effect.

These MOUs ended on February 28, 2006, and provided for a single 18-month extension, which expired August 27, 2007. On June 29, 2007, the NJSDA submitted a request for an additional extension to the Board. Since the single permissible extension had already been granted, and because funding levels for this pilot program have changed due to the withdrawal of the Elizabeth School District, Staff requested that the NJSDA, Board and the school districts enter into new MOUs.

³ "Abbott Districts" are public school districts covered by a New Jersey Supreme Court ruling that found that the education provided to some urban school children was inadequate and unconstitutional. In Abbott II and in subsequent rulings, the Court ordered the State to assure that these children receive an adequate education through implementation of a comprehensive set of programs and reforms, including school facilities improvements.

DISCUSSION

The NJSDA has submitted three new MOUs to the Board to extend the term of the grant period. Approval of the new MOUs would extend the time that the Districts have to complete the projects and submit all paperwork. Staff recommends an initial term of eighteen months, with subsequent extensions to be granted at six month intervals by the OCE upon submission of the required program reporting and evidence of sufficient progress toward the implementation of the Pilot PV Program.

The proposed MOUs do not modify the application of the LEED-NC (New Construction) at the Silver rating level to the districts' projects, as required by Executive Order No. 24 (July 29, 2002). Use of the LEED-NC standard will also further the policy goals behind the Board's December 19, 2002 Order and the State Energy Program. This standard provides a means of measuring the integration of renewable energy technology into the overall "greening" of the school building.

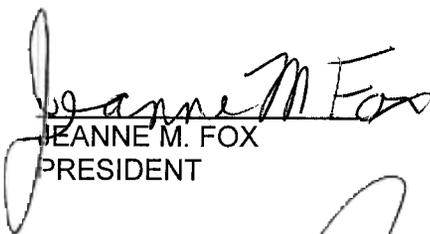
Approval of the proposed MOUs will also necessitate approval of a continuation of the funding set-aside from the CORE program's Public K-12 sector. The initial set-aside for the four schools was \$1 million. The CORE program has removed the Elizabeth District funding set-aside and now requests Board approval of a continuing funding set aside in the amount of \$750,000.

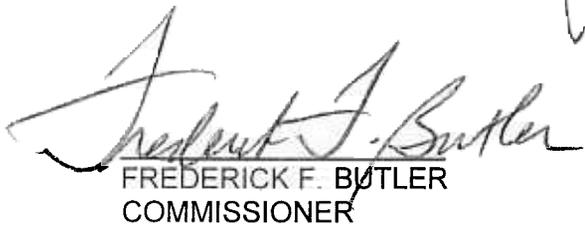
FINDINGS AND CONCLUSION

The Board FINDS that the MOUs submitted by the NJSDA contain appropriate provisions to permit the NJSDA and the signatory school districts to meet their obligations to the Board. The Board FINDS that extending the time to complete the work by an additional eighteen months, subject to six-month extensions when appropriate evidence of progress is submitted and continuing the \$750,000 funding set aside are reasonable. The Board HEREBY APPROVES the Memoranda of Understanding submitted by the New Jersey School Development Authority for implementation of the Pilot Photovoltaic Power System Program for the Newark, Neptune and Phillipsburg Districts. The Board HEREBY APPROVES the extension of time to continue the work under the Pilot PV Program. The Board ALSO APPROVES an extension of the grant term and continuation of the \$750,000 funding set-aside from the CORE's Public K-12 sector funding for the Abbott Districts and authorizes the President of the Board to execute these MOUs on behalf of the Board.

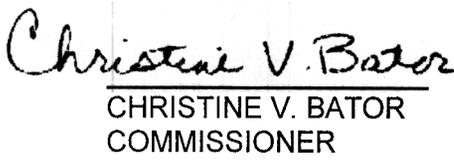
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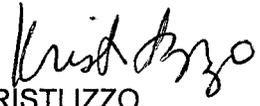
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ATTEST:

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
