



Agenda Date: 01/20/10
Agenda Item: 2I

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

**OFFICE OF CLEAN ENERGY
& DIVISION OF ENERGY**

IN THE MATTER OF ATLANTIC CITY ELECTRIC COMPANY RENEWABLE ENERGY PORTFOLIO STANDARD- AMENDMENTS TO THE MINIMUM FILING REQUIREMENTS FOR ENERGY EFFICIENCY, RENEWABLE ENERGY, AND CONSERVATION PROGRAMS; AND FOR ELECTRIC DISTRIBUTION COMPANY SUBMITTALS OF FILINGS IN CONNECTION WITH SOLAR FINANCING	)))))))	ORDER ON RESULTS OF THE SECOND SOLICITATION DOCKET NO. EO08100875
IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER AND LIGHT COMPANY CONCERNING A PROPOSAL AN SREC-BASED FINANCING PROGRAM UNDER N.J.S.A 48:3-98.1	)))	ORDER ON RESULTS OF THE SECOND SOLICITATION DOCKET NO. EO08090840
IN THE MATTER OF THE VERIFIED PETITION OF ROCKLAND ELECTRIC COMPANY CONCERNING A PROPOSAL FOR AN SREC-BASED FINANCING PROGRAM UNDER N.J.S.A 48:3-98.1	)))	ORDER ON RESULTS OF THE SECOND SOLICITATION DOCKET NO. EO09020097

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND AND PROCEDURAL HISTORY

By Order¹ dated August 7, 2008 ("August Order"), the New Jersey Board of Public Utilities ("Board") directed the Jersey Central Power and Light Company ("JCP&L") and the Atlantic City Electric Company ("ACE") to file by September 30, 2008, a solar financing program based on Solar Renewable Energy Credits ("SRECs") and including certain mandatory design and filing

¹ I/M/O the Renewable Energy Portfolio Standard: Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs, and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, Docket No. EO06100744

requirements. In addition, the August Order directed Rockland Electric Company ("RECO") to file with the Board an SREC-based financing program by January 31, 2009.

On August 22, 2008, RECO submitted a Motion for Reconsideration of the August Order, arguing that its proposed residential solar loan program, set forth in BPU Docket No. EO080907031, would be more effective in developing market support of solar projects in its service territory. By Order dated December 10, 2008, I/M/O Rockland Electric Company's Motion for Reconsideration or, in the Alternative, Clarification in Part of the Board's August 7, 2008 Order, Docket No. EO061 00744 ("December Order"), the Board rejected the Company's request to provide only a residential solar loan program, but determined that RECO was not prohibited from pursuing a solar loan program in addition to an SREC-based financing program. The December Order further provided that RECO could proceed with its own SREC-based financing program or it could opt to participate in the programs submitted to the Board by ACE or JCP&L.

On September 30, 2008, JCP&L filed its solar financing program, I/M/O the Verified Petition of Jersey Central Power & Light Company Concerning a Proposal for an SREC-Based Financing Program under N.J.S.A. 48:3-98.1, Docket No. EO08090840. On October 1, 2008, ACE filed its solar financing program, I/M/O the Renewable Energy Portfolio Standard – Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, Docket No. EO08100875. On February 3, 2009, RECO filed its independent SREC-based financing program ("RECO Program"), In the Matter of the Verified Petition of Rockland Electric Company for Approval of a Residential Solar Loan Program Pursuant to N.J. S.A. 48:3-98.1. Docket No. EO08090903.

Over the course of settlement discussions held between February and March 2009, the ACE and JCP&L filings took the shape of one model program ("ACE-JCP&L Program") with similar positions in all issues including cost recovery mechanism and incentives. The parties to the ACE and JCP&L case reached an agreement on all the relevant issues of the ACE-JCP&L Program and signed a stipulation on March 13, 2009 ("ACE-JCP&L Stipulation"). The Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") signed the ACE-JCP&L Stipulation but reserved its right to contest three specific issues. By Order in these dockets, dated March 27, 2009 ("March Order"), the Board approved the ACE-JCP&L Stipulation and resolved the contested issues. On May 8, 2009 Rate Counsel filed a Notice of Appeal with the Superior Court of New Jersey, Appellate Division, regarding the additional recoveries portion of the contested issues. ACE, JCP&L, the Board, and Rate Counsel entered into a stipulation of settlement on additional recoveries ("Stipulation of Appeal") on July 29, 2009 in the interest of avoiding further litigation. By Order dated September 16, 2009 the Board modified its March Order to reflect the terms of the Stipulation of Appeal. Rate Counsel withdrew its appeal on September 23, 2009.

On June 29, 2009, JCP&L and ACE retained NERA Economic Consulting to serve as Solicitation Manager ("SM") and to implement the ACE-JCP&L Program. On July 27, 2009 the parties to the RECO case executed a stipulation ("RECO Stipulation") agreeing on most of the RECO Program's details but leaving open two issues for the Board to decide upon. By Order in these dockets, dated July 31, 2009 ("July Order"), the Board approved RECO's Stipulation and resolved the contested issues.

Bids for the first solicitation round under the ACE-JCP&L Program were submitted to the SM by August 25, 2009. On September 23, 2009 the SM sent the Board Staff ("Staff") a confidential report containing its final recommendations to the Board. On September 30, 2009 the Board issued an order ("September Order"): (i) authorizing JCP&L to award SREC Purchase Sale Agreements ("PSAs") to seven projects for a total of 1,585.37 kW; (ii) ordering the second round of bids to be 12MW for JCP&L and 5MW for ACE; and (iii) ordering a third round to be held on March 5, 2010 with at least 9.40527 MW for JCP&L and 5 MW for ACE. In addition, the Board committed in its September Order to consider in this Order whether capacity not awarded in the second round should be included in the third round.

RECO began soliciting projects in the second solicitation round. On October 1, 2009, the SM updated the dedicated website. Bids for the second solicitation round under the ACE-JCP&L Program and the RECO Program (jointly "Programs") were submitted to the SM on December 11, 2009. The SM held a meeting with ACE, JCP&L and RECO (jointly "EDCs"), Staff and Rate Counsel on December 21, 2009, to discuss the preliminary results of the solicitation and possible recommendations to the Board. On January 14, 2010, the SM sent Staff a confidential report containing its final recommendations to the Board.

DISCUSSIONS AND FINDINGS

The Board has carefully reviewed the recommendations of the SM and **FINDS** that they appropriately address all the issues specified in the March and July Orders, the ACE-JCP&L Stipulation and the RECO Stipulation, and thus are in keeping with the overall purpose and requirements of the Programs. The Board **FURTHER FINDS** that the overall process was effectively competitive in this instance.

On the issue of the application of the 20% developer cap established in the August Order ("Developer Cap"), the Board **AGREES** with the SM's recommendation not to apply the Developer Cap in this instance. The Developer Cap derives from its ultimate purpose to prevent the concentration of SREC PSAs in the hands of few developers when and if this concentration displaces other developers' opportunity to enter into SREC PSA. In the case of this second round, there is under-subscription of the capacity solicited, and thus it cannot be established that solar developers have been displaced or prevented from entering into SREC PSAs due to the concentration of PSAs in the hands of few developers. In Addition, the Board **RE-AFFIRMS** that the Developer Cap applies to each EDC's Program size as planned for a given Reporting Year and reflected in the March and July Orders ("Planned Quantities"). These Planned Quantities follow the EDCs' commitment under paragraph two of the minimum filing requirements listed in the August Order, which requires SREC-based programs to provide for:

A commitment to enter into contracts to procure 60% of the EDC's new incremental SREC allocation through the end of the first full Reporting Year in which the EDCs are entering into long-term contracts pursuant to this Order. That percentage will decline to 50 percent for the second full Reporting Year and 40 percent for the third full Reporting Year

In the second solicitation conducted under the Programs, forty four (44) bids were received, totaling 7,009.628 kW. Thirty-nine (39) projects were recommended for award, totaling 6,521.798 kW. Five (5) bids totaling 487.830 kW were rejected because pricing was found not to be competitive. The simple average of the Net Present Value ("NPV") of all accepted

projects was \$2,864.93 with an average SREC price of \$405.15 for a ten-year PSA. The lowest NPV of all accepted projects is \$1,926.53 with an average SREC price of \$272.44 for a ten-year PSA.

In consideration of the recommendations of the SM and Staff, the Board **AUTHORIZES** ACE to award SREC PSAs to ten (10) projects for a total of 2,196.508 kW. The Board **AUTHORIZES** JCP&L to award SREC PSAs to twenty seven (27) projects for a total of 4,175.69 kW. The Board **FURTHER AUTHORIZES** RECO to award SREC PSAs to two (2) projects for a total of 149.60 kW. The Board **AGREES** with the SM's recommendation to not authorize five (5) awards on the basis of pricing for a total of 487.830 kW.

Based upon the results of the second round, and in compliance with the ACE-JCP&L Stipulation and the RECO Stipulation, the Board **ORDERS** that the third round of bids will be 7,803.49 kW for ACE, 17,238.94 kW for JCP&L and 2,117.40 kW for RECO. The preceding numbers represent the difference between the Planned Quantities for each EDC in Reporting Year 2009/10 less the amount of the actual awards for each of the EDCs following this second solicitation. The Board will review, along with any other information that it may have, the total amount of solar installed and projected to be installed at the time of the third round awards, to determine the number of MWs to be solicited in Reporting Year 2010/11. The Board's Order for the third round will address this issue.

This Order shall take effect immediately.

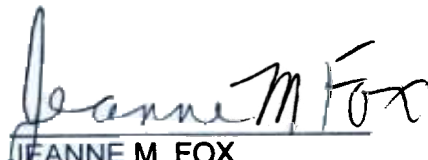
DATED 1/21/10

BOARD OF PUBLIC UTILITIES
BY:


ELIZABETH RANDALL
ACTING PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


JEANNE M. FOX
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

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

