



Agenda Date: 1/28/09 & 2/24/09
Agenda Item: 9C & LSB

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

MISCELLANEOUS

IN THE MATTER OF THE PROCESS PERTAINING)	ORDER
TO THE USE OF MONIES APPROPRIATED INTO THE)	
GLOBAL WARMING SOLUTIONS FUND PURSUANT)	
TO <u>L. 2007, C.340</u>)	DOCKET NO. EO09010040

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND

This Order memorializes action taken by the Board at its January 28, 2009 and February 24, 2009 agenda meetings.

Ten states are party to a Memorandum of Understanding concerning the design and implementation of a regional program (the "Regional Greenhouse Gas Initiative" or "RGGI") capping emissions of carbon dioxide from power plants in the region.

RGGI is a "cap-and-trade" program, capping emissions of carbon dioxide within the RGGI region. It caps emissions of CO₂ from power plants located within the RGGI region and having at least 25 megawatts ("MW") of generation capacity (a "RGGI Plant"). The total emissions from these units can be no greater than about 540 million tons over each period of three calendar years. RGGI Plants must purchase emissions credits, known as an "allowances," for each ton of carbon dioxide they emit in excess of the cap. A limited amount of allowances are made available each year, and the RGGI states determined to sell, via auction, most or all of their share of the issued allowances.

On January 13, 2008, Governor Corzine signed into law an act, N.J.S.A. 26:2C-45, et seq. (L. 2007, C.340, the "Act"), concerning the reduction of greenhouse gas emissions. Among other things, the Act established the Global Warming Solutions Fund ("Fund") to hold 1) the moneys received as a result of any sale, exchange, or other conveyance of allowances through a greenhouse gas emissions allowance trading program; 2) such moneys as are appropriated by the Legislature; and 3) any return on investment of any moneys deposited in the fund. N.J.S.A. 26:2C-50. After appropriation for administrative costs, 60 percent of the Fund shall be allocated to the New Jersey Economic Development Authority ("NJEDA"), 20 percent to the New Jersey Department of Environmental Protection ("NJDEP"), and 20 percent to the Board of Public Utilities ("BPU" or "Board").

The BPU is authorized to use its share of the Fund for the following purposes:

to support programs that are designed to reduce electricity demand or costs to electricity customers in the low-income and moderate-income residential sector with a focus on urban areas, including efforts to address heat island effect and reduce impacts on ratepayers attributable to the implementation of [the Act].

[N.J.S.A. 26:2C-51(b)(2).]

The RGGI cap on CO2 emissions took effect on January 1, 2009. On December 17, 2008, New Jersey participated in an auction of RGGI allowances, selling approximately 4.5 million allowances at a price of \$3.38 each, for a total of \$15,320,730.18. In the current fiscal year,

[t]here is appropriated pursuant to section 9 of P.L.2007, c.340 (C.26:2C-53), from the Global Warming Solutions Fund, established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), such sums as may be deposited to the fund to carry out the provisions of the Global Warming Solutions Fund and the "Global Warming Response Act," P.L.2007, c.112, (C.26:2C-37 et seq.).

[FY2008-2009 Approp. Handbook Pg. B-62.]

The Board has been advised by the NJDEP that, \$2,819,015.00 is currently available for a Board program and up to \$306,415.00 is available for the Board's administrative costs incurred as a result of implementation of the Act.

The Act directs the NJDEP, in consultation with the NJEDA and the Board, to adopt rules establishing guidelines and a priority ranking system to be used to assist those agencies in their allocation of funds to eligible program areas or projects. N.J.S.A. 26:2C-52. The Act also provides that the rules are to provide for an evaluation of each eligible project or program area in light of the predicted ability of the project or program area to achieve objectives specified in the rules. N.J.S.A. 26:2C-52b (1) - (5)

The NJDEP has proposed these rules, which were published in the February 17, 2009 issue of the New Jersey Register at 41 N.J.R. 833(a). The proposed rules provide for the NJEDA, the NJDEP, and the Board to separately identify eligible program areas that each agency intends to fund using its portion of the Global Warming Solution Fund. See proposed N.J.A.C. 7:27D-2.1(a) at Id. The proposed rules further provide that in addition to the criteria listed in the rule for selection of program areas, the Board may provide direct financial assistance to electricity customers in the low-income or moderate income residential sector, based on reduction or elimination of potential hardship to individual customers, where such assistance is "accompanied by efforts by the Board to encourage reduction in energy demand and greenhouse gas emissions..." See proposed N.J.A.C. 7:27D-2.1(f) at Id.

DISCUSSION

The worldwide economic downturn has severely disrupted the economic circumstances of families and households throughout the nation and the State. Nationwide, the unemployment rate climbed from less than five percent at the beginning of 2008 to 7.2 percent at the end of the year; 1.9 million jobs were lost from September through December 2008, 524,000 of which were

lost in December alone.¹ December 2008 also saw 2,275 “mass layoff actions,” each one involving 50 or more employees, eliminating a total of more than 225,000 jobs.²

New Jersey households are not immune from these or other economic hardships. Some New Jersey residents have lost jobs in the downturn; some bear large debts for the cost of treating medical problems; and some have suffered other problems that make it impossible to pay all of their bills. Moreover, although New Jersey offers a variety of ways to assist low-income electricity and natural gas customers in paying their electric utility bills, many customers who have seen their household budgets take a sudden and severe turn for the worse may nevertheless not meet the income-based eligibility requirements for this assistance.

The Governor and the Legislature have already taken some steps to help these customers. Most importantly, on December 12, 2008 Governor Corzine signed into law L. 2008, C.113. The legislation included a special appropriation of \$10 million to New Jersey SHARES to provide assistance to these customers. However, Board Staff has advised the Board that the need for this assistance this winter is likely to be significantly greater than \$10 million.

The NJDEP has proposed rules to implement the requirements of the Act concerning the use of monies in the Global Warming Solutions Fund. Those proposed rules are not yet in effect, and will not take effect until after the NJDEP receives and responds to public comment on the proposal and publishes a notice of adoption in the New Jersey Register. However, the Board **FINDS** that the current economic climate presents immediate and severe challenges and a risk of imminent harm to electricity customers, and that the Board has the ability to mitigate that risk.

For these reasons, the Board **FINDS** that electricity customers in significant financial straits, who are not eligible for assistance from the Universal Service Fund (“USF”) or the Low Income Home Energy Assistance Program (“LIHEAP”), and are suffering a serious hardship, could benefit significantly from direct financial assistance toward paying their electricity bills. The Board further **FINDS** that when such customers seek and receive such financial assistance, there is also an opportunity to provide longer-term help by offering these customers assistance in reducing their energy consumption, through other programs involving energy efficiency audits, targeted assistance for implementation of energy efficiency measures, and/or direct outreach and education regarding financial benefits of energy efficiency. For these reasons, the Board has determined that its share of the proceeds of the December 17, 2008 auction of RGGI allowances should be used to provide direct financial assistance to these customers.

The Board therefore **DIRECTS** Staff to develop a solicitation to provide grant(s) for program(s) that reduce costs to electricity customers with limited incomes³, specifically by providing direct financial assistance toward payment of electric bills for customers (i) in the low and moderate income residential sectors; (ii) not enrolled in or eligible for either the Board’s Universal Service Fund program or the Low Income Home Energy Assistance Program; (iii) having a household income that does not exceed 400 percent of the federal poverty level; and (iv) facing crisis situations that include a documented notice of overdue payment of electric service.⁴ These grants shall be called the Residential Electric Limited Income Emergency Fund (RELIEF). The

¹ United States Department of Labor, Bureau of Labor Statistics, “The Employment Situation: December 2008,” January 9, 2009, <http://www.bls.gov/news.release/empsit.nr0.htm> (accessed February 3, 2009).

² United States Department of Labor, Bureau of Labor Statistics, “Mass Layoffs In December 2008 And Annual Totals For 2008,” <http://www.bls.gov/news.release/pdf/mmls.pdf> (accessed February 3, 2009).

³ The Board notes that pursuant to the Board’s direction at the January 28, 2009 and February 24, 2009 Agenda Meetings, a Notice of Availability of Grants was published on the Board’s website on March 10, 2009 and Notice will be published in the New Jersey Register on March 16, 2009.

⁴ At the Board’s February 24, 2009 Agenda Meeting, the Board clarified the scope of the grant solicitation.

goal of such financial assistance shall be to prevent or forestall disconnection of such customers' service.

Those responding to the solicitation will be required to have a process in place for distribution of the money no more than two months after receiving the funds. Written educational information regarding the financial benefits of energy efficiency shall be delivered to customers receiving the financial assistance, and the customers shall also be notified that they may be contacted by the State, its agents, or the customer's electric utility with information about additional assistance available to improve the energy efficiency of the customer's home. The Board further **DIRECTS** that it will make available for the funding of the grant program \$2,819,015.00, which as of the date of this Order, is the portion of the monies in the Global Warming Solutions Fund for which the Board is responsible for allocation under N.J.S.A. 26:2C-51(b)(2). This Order shall only apply to such money allocated to the Board from the December 17, 2008 RGGI auction, including any additional moneys from that auction which may hereafter be allocated to the Board for programs, prior to the award of any grant(s) under the RELIEF program.

The Board has therefore determined that there is a need for immediate action and that persons in need of financial assistance likely would suffer harm were the Board to not take action until the NJDEP rules are in effect. Instead, the Board has taken the NJDEP's proposed rules into consideration, as providing the best currently available indication of the NJDEP's interpretation of the relevant statutory provisions it is responsible for implementing. Therefore, the Board will act consistently with these proposed regulations in distributing the RGGI funds.


DATED: 3/23/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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

