



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 COMPREHENSIVE ENERGY)	ORDER
EFFICIENCY AND RENEWABLE ENERGY RESOURCE)	
ANALYSIS FOR FISCAL YEAR 2016;)	
)	
IN THE MATTER OF THE CLEAN ENERGY PROGRAMS)	
AND BUDGET FOR FISCAL YEAR 2016: C&I NEW)	
CONSTRUCTION AND C&I RETROFIT PROGRAM – LED)	DOCKET NOS. QO15040476
MEASURES)	and QO15040477

Parties of Record:

- Maurice Kaiser**, Honeywell Utility Solutions
- Diane Zukas**, TRC Energy Services
- Michael Ambrosio**, Applied Energy Group
- Mark Mader**, Jersey Central Power & Light
- Timothy White**, Atlantic City Electric
- Sandra Eason Perez**, Orange & Rockland Utilities
- Bruce Grossman**, South Jersey Gas Company
- Susan Ringhof**, Public Service Electric & Gas Company
- Andrew Dembia, Esq.**, New Jersey Natural Gas
- Mary Patricia Keefe, Esq.**, Elizabethtown Gas Company
- Stefanie A. Brand, Esq.**, Director, Rate Counsel

BY THE BOARD:

In this Order the Board considers the process for modifying the prescriptive list of LED measures and incentives within the C&I New Construction and Retrofit Programs.

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”) was signed into law. EDECA established requirements to advance energy efficiency and renewable energy in New Jersey through the societal benefits charge (“SBC”). N.J.S.A. 48:3-60(a)(3). EDECA further empowered the Board to initiate a proceeding and cause to be undertaken a comprehensive resource analysis (“CRA”) of energy programs, which is currently referred to as the comprehensive energy efficiency (“EE”) and renewable energy (“RE”) resource analysis. Ibid. After notice, opportunity for public comment, public hearing, and consultation with the New Jersey Department of Environmental Protection (“DEP”), within eight months of initiating the proceeding and every four years thereafter, the Board determines the appropriate level of funding for EE and Class I RE programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of

February 9, 1999. These programs are now called New Jersey's Clean Energy Program (the "NJCEP").

As required by EDECA, in 1999, the Board initiated its first comprehensive EE and RE resource analysis proceeding. At the conclusion of this proceeding, the Board issued its initial order, dated March 9, 2001, Docket Nos. EX99050347 et seq. ("CRA I Order"). Through a series of Orders issued since 2001 the Board initiated and concluded a second, third and fourth CRA proceeding that set funding levels through FY16. The Board also considered and approved, on an annual basis, NJCEP programs and budgets. By Order dated June 25, 2015, Docket No. QO15040477, the Board approved the initial FY16 compliance filings that included program descriptions and detailed budgets.

As part of the NJCEP, the State offers C&I EE Programs, including programs titled C&I New Construction and C&I Retrofit components (collectively "SmartStart" or the "Program"). SmartStart targets commercial, educational, governmental, institutional, industrial, and agricultural customers engaged in customer-initiated construction events including public schools construction, other new building construction, renovations, remodeling, equipment replacement, and manufacturing process improvements. LEDs are an eligible measure under SmartStart.

The Program includes a list of measures for which prescriptive rebates are available. Prescriptive measures are those technologies where energy savings can be predicted with reasonable accuracy across all applications. Prescriptive LED measures allow customers to choose LEDs from a pre-qualified list of energy-efficiency measures and receive a fixed incentive. The incentives are based, in part, on incremental costs (i.e., the additional cost above baseline equipment), consideration of market barriers, changes in baselines over time and market transformation objectives.

Measures not on the prescriptive list may be eligible for incentives as a custom measure. Custom LED measures are designed to encourage LED measures that are innovative and more energy efficient than today's industry standards, and that have not yet been adopted as a prescriptive technology. Custom measure incentives allow customers to request an assessment of LED measures of their own choosing that are not on the prescriptive list. The process for calculating custom measure incentives entails a performance-based approach for custom equipment with a set value of incentives for electric and gas energy savings projects which may include a commissioning component.

To account for market changes, a measure on the custom incentive list may be moved to the prescriptive measure list, or a reduction in the prescriptive rebate may occur with Board approval. The existing practice is that if a custom application is submitted for the same LED measure at least three times, upon receipt of a third application, TRC will request approval to add the custom measure to the prescriptive measure list. Additionally, as prices for LED measures drop, TRC will propose to Staff to reduce the prescriptive rebate amount to reflect the lower cost.

The process to add a new measure to the prescriptive measure list or to lower a rebate level to reflect reductions in the cost requires TRC to develop a proposal for consideration by Staff. After review, Staff will circulate any proposed changes to the public for comment and make a recommendation to the Board. Because technology associated with LED measures is rapidly changing, the current process is not timely enough to meet these changes. Over the past four (4) years, prescriptive rebates have been created for twenty-two (22) new LED measure

categories; and, TRC's approved FY16 compliance filing established prescriptive rebates for twenty (20) additional, new LED measures. I/M/O the Clean Energy Programs Budget for Fiscal Year 2016, BPU Docket No. QO15040477, Order dated June 25, 2015, at 39-40; <http://www.njcleanenergy.com/files/file/TRC%20FY%202016%20CI%20Program%20and%20%20Budget%20Revision%2006-15-15%20CLEAN.pdf>.

Furthermore, LED pricing has seen dramatic reductions over the past four (4) years as the technology has matured and become more accepted by vendors/customers. SSL Pricing and Efficacy Trend Analysis for Utility Program Planning, (October 2013), <http://www.njcleanenergy.com/commercial-industrial/programs/nj-smartstart-buildings/tools-and-resources/program-guide/section-2>. Similar pricing trends are expected to continue in future years as products continue to improve and manufacturing costs are reduced.

To protect the NJCEP and customers from overpaying for LED measures and to reflect the realities of a rapidly changing market place, Board Staff has proposed changes for LED products only. The changes would allow Staff to approve the addition of new measures to the prescriptive rebate list, and reduce existing rebates for LED products. These adjustments would be subject to modification by the Board at a future agenda meeting, and would require the following procedures:

1. The Market Manager may propose the addition of a new LED measure to the prescriptive rebate list or to lower an existing rebate for an LED measure.
2. The Market Manager shall include in any proposal supporting documentation that includes the price of the measure and rationale for the proposed change.
3. Any changes proposed by the Market Manager shall be reviewed by the NJCEP Program Coordinator, and submitted to Board Staff for review.
4. Staff shall provide a written notice to each Commissioner at least seven days prior to either adding a new LED measure to the prescriptive rebate list or lowering the rebate for an LED measure on the existing Board-approved prescriptive measure list.
5. Concurrent with notifying the Commissioners, Staff shall post notice of any proposed changes 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 comment on any proposed modifications. Any changes to either the custom or prescriptive measure list will be approved by Staff, and will become effective immediately following the seven-day comment period.
6. Staff shall report on its delegated activity to the Board during the public session of any agenda meeting at which the Board considers the NJCEP budget. Staff's presentation shall include responses to comments received 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.

DISCUSSION AND FINDINGS

The Legislature impliedly permits subdelegation of powers to agents of the agency who are in close touch with the problem and its specific demands, when the delegation is "narrowly limited, reasonable, and surrounded with stringent safeguards to protect against the possibility of arbitrary or self-serving action detrimental to third-parties or the public good generally." Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 164 (1978). The Board **FINDS** that the limited delegation of authority requested by Board Staff meets this standard.

The Board relies upon Staff to monitor LED measures and the regularity in which their market value fluctuates. Staff's position within the agency and routine interaction with the Market Manager and Program Coordinator uniquely position it to know whether a custom measure needs to be made a prescriptive measure, or if a prescriptive rebate needs to be reduced. With such dramatic shifts in the LED market, and the frequency at which custom measures must be moved to the prescriptive list, it is appropriate for the Board to delegate this task to Staff.

The Board also **FINDS** that the proposal described above contains sufficient safeguards and Board oversight. Staff must submit a written notice to each Commissioner at least seven days prior to either adding a new LED measure to the prescriptive rebate list or lowering the rebate for an LED measure; and Staff must provide an opportunity for public comment. Staff must report on its delegated activity to the Board during the public session of any agenda meeting at which the Board considers the NJCEP budget. Staff's report will include responses to public comments received and any other relevant information, and must occur at least twice per year.

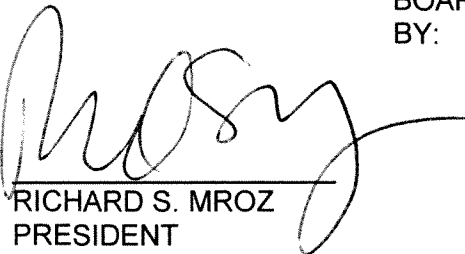
Accordingly, the Board **HEREBY DELEGATES** authority to make changes to the LED prescriptive measures and rebates, and **DIRECTS** Staff to follow the process for notice, implementation, and review as described above.

The effective date of this Order is October 25, 2015.


DATED:

October 15, 2015

BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
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MARY-ANNA HOLDEN
COMMISSIONER

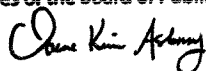

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:


IRENE KIM ASBURY
SECRETARY

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



IN THE MATTER OF THE COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE
ENERGYRESOURCE ANALYSIS FOR FISCAL YEAR 2016;
IN THE MATTER OF THE CLEAN ENERGY PROGRAMS AND BUDGET FOR FISCAL YEAR
2016: C&I NEW CONSTRUCTION AND C&I RETROFIT PROGRAM – LED MEASURES
DOCKET NOS. QO15040476 and QO15040477

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