



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE 2009 STATE ENERGY )  
PROGRAM (SEP) / AMERICAN RECOVERY AND )  
REINVESTMENT ACT (ARRA) FUNDING PLAN – )  
REQUEST FOR REALLOCATION – GRANT )  
PROGRAM FOR ENERGY SAVINGS THROUGH )  
LED SURFACE LIGHTING UPGRADES AT )  
STATE-OWNED FACILITIES ) DOCKET NO. EO09030210

**Parties of Record:**

**Ed Mercer, Director, State Energy Office**  
**Sandy Zeglarski, Market Research Officer, New Jersey Economic Development Authority**  
**Mike Ambrosio, Senior Vice President, Applied Energy Group**

BY THE BOARD:<sup>1</sup>

By this Order, the Board of Public Utilities ("Board") considers and renders its decision regarding the reallocation of American Recovery and Reinvestment Act of 2009/State Energy Plan ("ARRA/SEP") funds to create a grant program to fund energy savings through LED Surface Lighting Upgrades at state-owned facilities.

**BACKGROUND**

On April 12, 2012, the Board approved the creation of the ARRA Revolving Loan Fund ("RLF") with a funding level of approximately \$3,000,000.00. In the Matter of the 2009 SEP/ARRA Funding Plan – Request for Reallocation, Docket No. EO09030210 (Apr. 12, 2012). The RLF is administered cooperatively through the Board's Office of Clean Energy ("OCE") and the Economic Development Authority ("EDA"), and intended to fund energy efficiency and renewable energy projects in state-owned facilities as well as Demand Response projects throughout the state.<sup>2</sup>

<sup>1</sup> Commissioner Upendra J. Chivukula did not participate in discussion, deliberation, or vote on this matter.

<sup>2</sup> In addition to capturing unspent ARRA funds, the RLF also serves to capture ongoing bank interest accrued on the unspent ARRA RLF funds and repayments from two ARRA loan programs administered by the New Jersey Housing Mortgage Finance Agency - the Home Energy Saving Program and Solar Loan Pilot program. As of October 26, 2015, the total value of the ARRA RLF fund was \$4,416,488.48.

On May 23, 2014, The United States Court of Appeals for the District of Columbia issued an order invalidating Order 745 of the Federal Energy Regulatory Commission ("FERC"). Elec. Power Supply Assoc. v. FERC, 753 F.3d 216 (D.C. Cir. 2014) ("EPSA"). Order 745 set out several requirements for wholesale-market operators regarding the compensation and use of demand-response commitments in wholesale-electricity markets, including the methodology used by wholesale-market operators to compensate demand response. See Order No. 745, Demand Response Compensation in Organized Wholesale Energy Markets, 134 FERC ¶ 61,187 (Mar. 15, 2011). However, the Court found that FERC's rules impermissibly governed the retail market, because demand response by definition is a "retail product." Accordingly, the Court vacated FERC's Order 745 as ultra vires agency action. EPSA, supra, 753 F.3d at 225. This decision has created uncertainty about the future of demand response compensation in wholesale markets. See Robert Walton, Uncertainty is the New Constant for Demand Response Markets, Utility Dive, April 8, 2015.

In light of this uncertainty, OCE Staff ("Staff") chose to change the RLF program to a grant program that would enable the State to immediately engage federal dollars to advance energy efficiency and realize the cost, environmental and quality of life benefits associated with energy efficiency improvements. Staff proposed this programmatic change, and in July 2015, the U.S. Department of Energy ("DOE") approved the reallocation of \$1,800,000 from the ARRA RLF to fund a grant program focused on LED Surface Lighting Upgrades at State-owned facilities (the "Program"). The Program is consistent with Governor Christie's goal when creating the State Energy Office ("SEO") within the Board for the State to "lead by example" by implementing energy conservation measures ("ECMs") in State-owned facilities and achieve real savings for New Jersey's ratepayers.

This Program will be administered by the SEO, and funding will be held in a Treasury account dedicated to the Program. The SEO will use the NJ Clean Energy Program's Information Management System ("IMS") to track documents and invoices, ensure all projects are in compliance with State and Federal requirements, and to generate DOE-required reports. These funds will retain their federal flow-down requirements as delineated by ARRA Section 1512. Pub. L. No. 111-5, 123 Stat. 115, 287 (Feb. 17, 2009).

### **Program Delivery**

SEO Staff and the State Energy Savings Initiative Oversight Committee are responsible for the technical review of the proposed projects to determine which state-owned facilities are eligible. All equipment will be purchased directly by the State via existing State contracts, and the installation of the ECMs will be accomplished through existing State maintenance contracts; therefore, the State will not issue an RFP to implement this Program.

During construction, SEO Staff shall be responsible for monitoring the expenditures of the Program funds and for compliance with all State and Federal requirements, including reviewing invoices for ARRA Section 1605 ("Davis-Bacon Act") and ARRA Section 1606 ("Buy-American") compliance. See ARRA, Pub. L. No. 111-5, 123 Stat. 115, 303 (Feb. 17, 2009). SEO Staff shall review and upload all invoices, certified payrolls, inspection reports, and required supporting documents into the IMS as a condition of payment. Staff will be responsible for all federal reporting requirements as delineated by DOE and ARRA Section 1512. ARRA, supra, 123 Stat. at 287.

The State Energy Savings Initiative Oversight Committee has proposed the following six projects: The State House, Department of Motor Vehicles, Central Distribution Warehouse, The

Hughes Justice Complex, and Department of Labor. In aggregate, by replacing existing high-pressure sodium, metal halide, and fluorescent lighting, SEO Staff estimates that state ratepayers will avoid 1,810,194 kwh annually, resulting in a savings of \$199,148.00 in annual energy costs. When these savings are extended over the expected life of the equipment, 10 years, taxpayers are expected to save \$1,991,480.

**Funding**

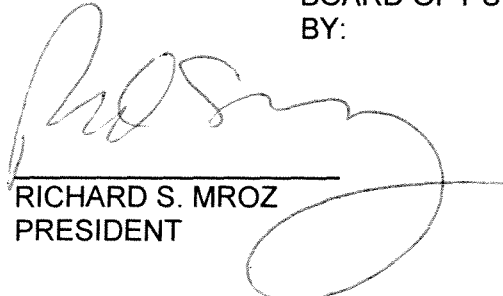
Approximately \$1,800,000 will be transferred from the ARRA RLF fund within EDA and will be encumbered through a Treasury purchase order for these projects. Upon completion of a given project, SEO Staff will review all invoices and supporting documentation. After this information is approved and uploaded to IMS, a Request for Payment will be sent for SEO Staff approval. Upon SEO Staff approval, Treasury will then make payments to the maintenance contractor for the installation of the measures.

Staff recommends that the Board approve the reallocation of \$1,800,000 in ARRA RLF funds for the creation of the Program to fund energy savings through LED Surface Lighting Upgrades at State-owned facilities to immediately engage federal dollars to advance energy efficiency within State-owned facilities. Additionally, the Program allows the State to "lead by example" by implementing ECMs in State-owned facilities and achieve real savings for New Jersey's taxpayers.

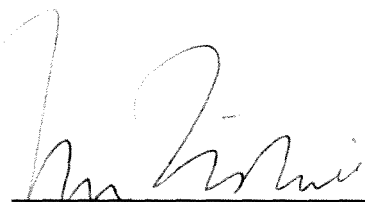
The Board **FINDS** Staff's recommendation is reasonable and **HEREBY ORDERS** Board Staff to work with EDA and Treasury to transfer \$1,800,000 from the ARRA RLF to fund a grant program to upgrade LED Surface and Warehouse Lighting in eligible state-owned facilities.

DATED: 11/16/15

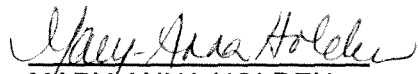
BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



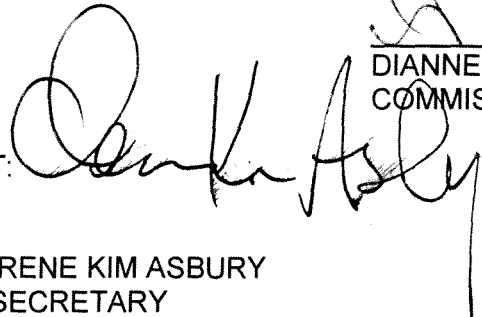
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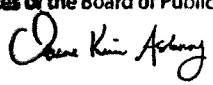


DIANNE SOLOMON  
COMMISSIONER

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 2009 STATE ENERGY PROGRAM (SEP) / AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING PLAN – REQUEST FOR REALLOCATION –GRANT PROGRAM FOR ENERGY SAVINGS THROUGH LED SURFACE AND WAREHOUSE LIGHTING UPGRADES AT STATE-OWNED FACILITIES

DOCKET NO. EO09030210

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