



Agenda Date: 7/10/19
Agenda Item: 8C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF INNOVATIVE SOLUTIONS)
CORPORATION'S APPEAL OF THE DENIAL OF)
APPLICATIONS FOR INCENTIVE PAYMENTS)
SUBMITTED UNDER THE NEW JERSEY)
SMARTSTART BUILDINGS PROGRAM)
ORDER
DOCKET NO. QC19020243

Parties of Record:

Anshul Jain, Innovative Solutions Corporation, Petitioner

BY THE BOARD:

By letter dated February 19, 2019, Innovative Solutions Corporation ("Innovative Solutions" or "Petitioner") filed a petition ("Petition") in the above-captioned matter requesting that the New Jersey Board of Public Utilities ("Board") reverse the denial of eighteen (18) of Innovative Solution's applications to the New Jersey Clean Energy Program's ("NJCEP") Commercial and Industrial Retrofit Program, a subset of NJCEP's SmartStart Buildings Program ("SmartStart"). For the reasons noted herein, the Board affirms the denial of the incentives.

BACKGROUND

The Board administers NJCEP pursuant to its authority under the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 to -109. NJCEP's energy efficiency ("EE") and renewable energy ("RE") programs are open to all customers paying into the Societal Benefits Fund.¹ The Board's Program Administrator, TRC Environmental Corporation ("TRC"), administers NJCEP. NJCEP's SmartStart Program, available to qualified commercial, industrial, institutional, governmental, and agricultural customers, provides incentives for construction, expansion, renovation, or remodeling of a facility or to replace electric or gas equipment. Both prescriptive and custom measures may qualify for incentives.

¹ The Fund is comprised of the monies collected through the societal benefits charge ("SBC") paid by ratepayers. See N.J.S.A. 48:3-60.

PROCEDURAL HISTORY

Between February 3, 2014 and June 29, 2015, Petitioner submitted a series of applications to the SmartStart Program. While some were completed, properly documented, and paid out, the eighteen (18) that comprise this Petition were cancelled by TRC after Petitioner failed to provide proper follow-up documentation and failed to request extensions to comply with TRC's requests.

On December 30, 2016, Innovative Solutions reached out to TRC to ask about the status of several applications.² TRC responded on January 3, 2017, informing Petitioner that the subject projects had been cancelled. Petitioner requested information on how to appeal this decision on the same day. In a response sent later that day, TRC explained the process to appeal a Program Manager's decision and outlined the documentation needed for TRC to review the issues. TRC further indicated that given the number of cancellations and the significant lapse of time since they had occurred, Petitioner's arguments would have to be extraordinary and well-supported to support a reversal of the cancellations.

On March 13, 2017, Petitioner submitted its appeal forms and supporting documentation to TRC. The bulk of the documentation consisted of medical records and physician's notes demonstrating that Alok Jain, founder of Innovative Solutions, had been dealing with significant medical issues from December 12, 2013 through December 7, 2015. Petitioner claimed that the severity and length of these issues had made it difficult for Innovative Solutions to properly and expediently submit the required paperwork for the projects in question. On March 28, 2017, although it found the submittals incomplete, TRC took these extenuating circumstances into account and gave Petitioner until April 28, 2017 to submit the documentation necessary. On April 28, 2017, Innovative Solutions submitted documentation comprising the bulk of what Petitioner believed sufficient to qualify for incentive payments; additional documents were submitted on May 1, 2017. On May 10, 2017, TRC denied the applications, noting that the documentation submitted was still highly deficient in multiple areas.

On November 30, 2018, a year and a half later, Innovative Solutions again contacted TRC, requesting that it reopen the appeal. Innovative Solutions asserted that the documentation submitted on April 28, 2017 and May 1, 2017 was in fact complete and correct. On December 17, 2018, TRC denied Petitioner's request to reopen the matter, reiterating its rationale for denying the applications eighteen months earlier. TRC also advised Petitioner that should it wish to further pursue its appeal, the next step should be to file a petition for a formal hearing with the Board.

On January 7, 2019, Innovative Solutions sent TRC another email, in which it took issue with many of TRC's claims regarding Petitioner's documentation and maintained that it had provided TRC with every piece of information requested or had a good reason for its failure to do so. The email also expressed Petitioner's desire to file a petition for hearing with the Board. On January 21, 2019, TRC restated to Petitioner the reasons it had previously denied the applications, dismissed Petitioner's assertions in the January 7, 2019 correspondence as inaccurate, and again gave Petitioner directions on how to file a formal petition.

On February 19, 2019, Innovative Solutions filed the instant petition with the Board.

² Petitioner claims that the subject projects were all completed between March 15, 2014 and November 20, 2015 (see Attachment A below).

STAFF RECOMMENDATION

Staff notes that NJCEP has administrative deadlines for many reasons, including its need for accurate budgetary forecasting. NJCEP's Program Administrator will often grant reasonable extensions for good cause shown, where the delays are relatively minor, the reasons for them are excusable and reasonable, and the applicant is proceeding diligently to reduce the delays and their effects. The present case does not fall into this category. The delays have been much longer than usual and Petitioner's actions in dealing with the situation have been dilatory at best. Furthermore, both the SmartStart webpage and the application forms themselves set forth clearly the documentation required, including:

- Completed application forms signed by the customer;
- Manufacturer specification sheets and supporting documentation of qualifications; and
- Recent copy of a full utility bill from a participating utility (gas or electric depending on technology) showing societal benefits charge, listing the name of the customer shown on the application.³

TRC informed Innovative Solutions at the outset of its appeal that due to the amount of time already elapsed, both its arguments and its supporting documentation would have to be exceptional. While Petitioner thoroughly documented the extended illness that caused the initial delay that resulted in the rejection and cancellation of the applications, it has been several years since these medical issues first surfaced as likely hindrances to Innovative Solution's normal operating procedures. The Program Administrator must consider the needs of other participants in the program as well. TRC gave Petitioner a clear but generous timeline of thirty days and specified the necessary documentation with great clarity:

1. The final invoice actually submitted to the customer;
2. Documentation that the invoice was paid and of the date of payment (i.e., copy of customer's cancelled check or copy of bank statement showing receipt/deposit of the payment);
3. The date(s) installation commenced and was completed (e.g., work orders, time sheets, construction logs);
4. A signed statement from the customer, on the customer's letterhead, certifying the date(s) installation commenced and was completed;
5. A valid Tax Clearance Certificate ("TCC"); and
6. Any other information or documentation the Program Manager requires.
[Electronic mail dated Mar. 28, 2017, from Tom Kowalczyk to Anshul Jain]

Petitioner repeatedly failed to provide the necessary documentation. In their April 28, 2017 filing, Innovative Solutions failed to provide valid proof of payment or valid signed statements from customers for any of the projects. Furthermore, many of the submitted TCCs were

³ <http://www.njcleanenergy.com/commercial-industrial/programs/nj-smartstart-buildings/resources/nj-smartstart-buildings-application>; <http://www.njcleanenergy.com/commercial-industrial/programs/nj-smartstart-buildings/application-forms/application-forms>.

expired, contained names that did not match the associated utility bills, or were absent altogether. Additionally, some of the invoices listed a different LED product than originally approved, and some failed to provide proof of the new product's Energy Star qualification. Petitioner also submitted information for at least one application that had been paid out in 2015, casting doubt on Petitioner's familiarity with the contents of its submissions.

Moreover, Petitioner fails to make valid arguments explaining said deficiencies. The Petition relies upon precisely the same arguments that were laid out in the January 7, 2019 email to TRC, despite the fact that TRC refuted each argument in its January 21, 2019 response. The arguments and TRC's rebuttals can be grouped into four categories:

1. To justify the lack of proof of payment, Innovative Solutions claims that it provided the prescriptive lighting bulbs to the hotel owner to install themselves, so there was no proof of payment to submit. However, this information was not relayed to TRC until January 7, 2019, nearly two years after the initial appeal was submitted.
2. In regard to the TCC issues, Innovative Solutions agrees that the discrepancies between the names on the TCC to the names on the utility bill were in many cases present in the submission, but asserts that this can be explained by some clients changing their names in the time between their submission and the project completion date and, vaguely, "other reasons...which we will thoroughly explain." However, there has been neither an explanation of the other reasons nor any response to the fact that many of the TCCs were either missing or expired.
3. Petitioner admits that only three of the applications were correctly submitted on letterhead, but explain this failure by saying that most of its clients don't have official letterhead, and instead provided signed statements with contact information. Petitioner fails to respond to TRC's point that the letterhead was an added feature of this particular submission, and that a signed paper with contact information is insufficient. TRC has discretion in the appeal process and may elect to set appropriate conditions for further submissions. The conditions set were based on TRC's concerns about the integrity of the submissions, both because of the staleness of the applications and because of their submission by an individual who was not directly involved with the original applications or the business itself at the time the subject installations were made.
4. Innovative Solutions acknowledges that there were changes to the LED products identified in some of the original SmartStart applications. Despite claiming that it can provide proof that the new products are Energy Star qualified, Petitioner has provided no such proof to date.

The current Petition relies upon inaccurate, incomplete, and out-of-date information and documentation. In addition, Innovative Solutions bears the responsibility for the stale nature of information and documentation because of the slow pace with which it has pursued its appeal. Accordingly, Staff recommends that the Board deny the Petition.

DISCUSSION AND FINDINGS

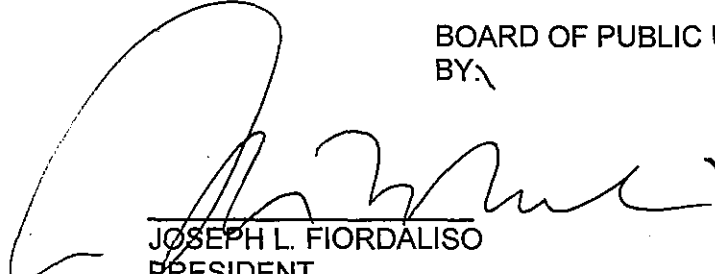
After thorough review of the record and of Staff's recommendation, the Board **FINDS** that the majority of Petitioner's submissions were tardy, as well as deficient, and/or inaccurate. The Board **FINDS** that Innovative Solutions' applications were properly denied. Therefore, the

Board **HEREBY DENIES** Petitioner's request to reverse TRC's denial of its application. The denial of Petitioner's application is **HEREBY AFFIRMED**.

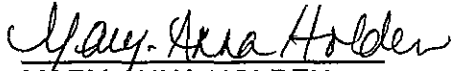
The effective date of this Order is July 20, 2019.

DATED: 7/10/19

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



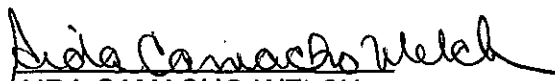
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

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

ATTACHMENT A

Application Number	Claimed Completion Date
24550	3/15/2014
24546	3/15/2014
24547	3/15/2014
25540	7/10/2014
25513	10/15/2014
27868	10/20/2014
27884	10/20/2014
24542	2/1/2015
30208	2/1/2015
27181	5/10/2015
27184	5/10/2015
30681	5/20/2015
27887	6/10/2015
30683	8/10/2015
33542	9/1/2015
29101	10/1/2015
29102	10/20/2015
30207	11/20/2015

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OF APPLICATIONS FOR INCENTIVE PAYMENTS SUBMITTED UNDER THE NEW JERSEY
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INNOVATIVE

SOLUTIONS CORPORATION

Creating energy efficient and environmentally friendly business culture one location at a time

RECEIVED
MAIL ROOM

FEB 19 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Dear Ken Sheehan,

1. My name is Anshul Jain with Innovative Solutions Corporation and I am filing a petition regarding the NJ Clean Energy Program on behalf of my father, Alok Jain. Alok Jain, founder of Innovative Solutions, has had serious medical issues beginning in 2013 and monthly check ups continuing to date, which led to personal and professional trauma. Being the sole employee/proprietor and me being a student at the time, resulted in large delays in business, specifically with the application process in which he was unable to file paperwork on time. For this reason, we requested to appeal to issues@njcleanenergy.com. On March 28, 2017, they accepted to hear our appeal (Appeal #17-1388) and asked us to submit all requested information by April 28, 2017. Our firm did as such.
2. On May 10, 2017, we received notice that our appeal was denied based on four issues with the submitted applications: 1. No proof of payment, 2. Missing/Mismatched names on utility bills/ Expired tax clearance certificates, 3. Changes in LED products from those originally approved, and 4. No signed statement on customer letterhead. We tried to resolve this matter and re-appeal in November 2018 to make all necessary clarifications, but were again broadly denied.
3. In order to overturn this decision and further the appeal process, the program administrators directed us to file a petition for a formal hearing with the New Jersey Board of Public Utilities pursuant to N.J.A.C. 14:1-1. We believe the program administrators were mistaken in denying our appeal case and we would like to explain why.
4. For the 1st reason of "Proof of payment," we noted at the bottom of each invoice: "Installation done by onsite maintenance staff." We provided bulbs through the prescriptive lighting program for the hotel owner to install themselves. There was no payment made between us (Innovative Solutions) and our clients, in turn no proof of payment to submit (i.e. copy of customer check/payment). This is also reiterated in the signed statements from our clients that we provided in our initial appeal package.
5. For the 2nd reason, "Issues of missing names/mismatched names to utility bills/expiration of tax clearance certificates," we went back to each individual application to figure out the discrepancies. At the time of submission in April 2017, all of our submitted certificates were valid. After inspecting each tax clearance certificate and carefully comparing it to each utility bill, we saw a number of applications that did indeed not match each other. This can be explained as between the time of conducting business with our client and time of submission of our appeal, the hotels had changed their names or other reasons, all of which we will thoroughly explain. But for ten of the applications, everything matched perfectly.

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6. For the 3rd reason, "No signed statement on customer's letterhead," with the exception of 3 Red Roof Inn applications (#29101, #29102, #30207), our clients did not have letterheads with company logos to provide us, as they are individually owned businesses. However, with each application we provided a signed statement from the client with full and direct contact information, indicating installation commencement and completion dates.
7. For the 4th reason, "Changes in LED product," this only applies to four applications (#29101, #29102, #30207, and #27868). The first 3 (#29101, #29102, #30207) had product changes, but even the changes were Energy Star qualified and we have proof of it.
8. We also mistakenly included application #24148 in our appeal case, as it was already paid for. However, we would still like to highlight the components of that specific paid application. When comparing application #24148 with the ones in our appeal, you'll notice that we submitted the exact same type of documents as all the other applications in our original appeal of April 2017. Our information was accepted then, but denied now. Records will show, that we have completed and were paid for, numerous projects without a letterhead (with accurate tax clearance certificate and no product changes, of course) before and even after this appeal case. Focusing on this particular case these applications had a signed statement just not on a letterhead, with all else correct. (#24542, #24546, #24550, #25513, #25540, #27884, #30208, #30681, #30683, #33542) Furthermore, if you take some of these applications, you will notice that they are repeated customers. This shows we were paid for submitted applications without customer letterheads. However for our appeal case, the same type of documents were provided, yet denied for payment (#30208 - #24540 paid), (#30683 - #20862 paid), (#33542 - #22109 paid).
9. All of our applications were broadly denied, despite obtaining the exact same components that were accepted before and after this appeal case. It is for these reasons we would like to file a petition for a formal hearing with the New Jersey Board of Public Utilities pursuant to N.J.A.C. 14:1-1. We ask that the Board allow us the opportunity to present our case in order to receive payment for the applications involved. (Application #24542, #24546, #24547, #24550, #25513, #25540, #27181, #27184, #27868, #27884, #27887, #29101, #29102, #30207, #30208, #30681, #30683, #33542)