



Agenda Date: 4/14/2010
Agenda Item: 8B

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

CLEAN ENERGY

IN THE MATTER OF THE CUSTOMER ON-SITE)	ORDER
RENEWABLE ENERGY (CORE) PROGRAM)	
REQUEST FOR EXTENSION OF REBATE)	
COMMITMENT DEADLINE:)	
40 RUSSO PLACE, LLC)	DOCKET NO. EO10010045

Mark C. Annis, President, 40 Russo Place, LLC, Berkeley Heights, NJ 07922

Cynthia L.M. Holland, DAG, Division of Law, Newark, New Jersey, on behalf of the
Board of Public Utilities

(SERVICE LIST ATTACHED)

BY THE BOARD:

By this Order, the Board of Public Utilities ("Board") considers and renders its decision regarding a request from 40 Russo Place, L.L.C. for an extension of its Customer Onsite Renewable Energy ("CORE") Program rebate commitment deadline.

BACKGROUND

This matter relates to a request for an extension of time to complete a project for which a rebate commitment was made under the CORE program. The CORE program was designed to support the sustained and orderly development of markets for distributed renewable electric generation in New Jersey. The program offers financial incentives to New Jersey public utility customers investing in eligible, on-site renewable electricity generation using photovoltaic, wind, biomass, and fuel cell systems.

ANCO Environmental is developing a privately owned solar system for 40 Russo Place LLC on a commercial building located at 40 Russo Place, Berkeley Heights, New Jersey (note: 40 Russo Place is both the name of the business and the street address of the building where the solar system will be located). By letter dated October 2, 2008, the CORE Program Market Manager issued 40 Russo Place a rebate commitment letter for a 10 kW solar system with an estimated rebate of \$38,000. The deadline for completion of the project in the commitment letter was twelve months from the date of the letter, or October 2, 2009.¹

In early summer of 2009, 40 Russo Place began to encounter delays obtaining the municipal permits necessary to complete its project. The 40 Russo Place project was the first commercial solar system built in Berkeley Heights, and therefore municipal officials were not familiar with the technology, or with how to go about applying for building codes and issuing permits for the system. Although 40 Russo Place indicates that it had built extra time into its construction schedule for municipal permitting, the delays ultimately amounted to four months total, which jeopardized the completion of the project on schedule.

40 Russo Place indicates that it contacted the CORE Program Market Manager between June 2 and July 15, 2009 to discuss its concerns regarding the project delays, and requested information regarding how to extend the rebate commitment. 40 Russo Place stated that it was told during two independent telephone conversations with specific members of the Market Manager team that the rebate commitment deadline would be extended as long as the project was substantially underway. 40 Russo Place indicates that, during these calls, the Market Manager specifically advised that "substantially underway" meant that plans were to be complete, permits issued and components ordered and paid for.

In response to an inquiry from the Program Coordinator, the Market Manager staff members named by 40 Russo Place stated that they did recall speaking with 40 Russo Place representatives during June and July of 2009. Further, the Market Managers did not dispute the assertions of 40 Russo Place regarding the content of the telephone conversations.

As the rebate commitment deadline of October 2, 2009 approached, 40 Russo Place increased its communication with the Market Manager team, to keep them apprised of project progress. 40 Russo Place indicates that on September 29, 2009, the Market Manager stated for the first time that there may be a problem with the rebate extension, and told 40 Russo Place to document the status of the project and submit a formal extension request. On October 2, 2009, 40 Russo Place submitted a request for an extension of the rebate commitment deadline to the Market Manager along with all required supporting documentation. By letter dated October 20, 2009, the Market Manager rejected the request for an extension, stating that the CORE program does not allow any extensions for privately owned projects smaller than 10 kW.

¹ The deadline in the 40 Russo Place rebate commitment letter was derived from two sources – first, the CORE Program Guidelines state that all privately owned projects under 10 kW in size will be given nine calendar months, starting from the date on the rebate commitment letter, for project completion, with no extensions. CORE Program Update, 13 (Aug. 17, 2006). However, by Order dated June 24, 2008, Docket No. EX04040276, the Board provided an automatic extension to two types of CORE program rebate commitments: those containing a completion deadline falling during 2008, and those issued during 2008. Projects covered by these two types of commitments all received a three month extension of time in which to complete their projects. Consistent with the Guidelines' 9 month deadline for projects under 10 kW, plus the 3 month extension granted under the Order described herein, the deadline for completion of the solar system at 40 Russo Place was set at October 2, 2009.

By e-mail dated November 4, 2009, 40 Russo Place filed a dispute with the Program Coordinator for the New Jersey Clean Energy Program, requesting an extension of the rebate commitment deadline. In its e-mail, 40 Russo Place indicated that the project was delayed due to municipal permitting difficulties, bank funding difficulties and the economic downturn. 40 Russo Place stated that this project is the first commercial solar installation in Berkeley Heights, that the construction code official was unfamiliar with many system details, and that as a result of this, issuance of the municipal construction permit was delayed for over four months. 40 Russo Place reiterated that it had reached out to the Market Manager team and had been told on two occasions by specific staff members that the project was eligible for an extension.

As the Program Coordinator is not authorized to grant an extension in this case, this matter has been referred to the Board for decision.

DISCUSSION

40 Russo Place has indicated that it was told on at least two occasions, by two named Market Manager staff members, that it was eligible for an extension of the rebate commitment deadline. 40 Russo Place further stated that it relied upon the Market Manager statements in deciding to move forward with the project. The two Market Manager staff members named by 40 Russo Place do not dispute these assertions.

Further, 40 Russo Place has demonstrated that it had, at the time of its extension request, shown substantial progress towards completion. The project had obtained construction permits, purchased and taken delivery of equipment, and commenced construction of the solar system. Therefore, Staff believes that 40 Russo Place should be provided with some redress, and that any extension issued should take into account the time it has required for this dispute to be considered and resolved by the Board.

STAFF RECOMMENDATIONS

Based on the above factual background and discussion, Staff recommends that the Board grant 40 Russo Place a six month extension of the time to complete its project, beginning on the issuance date of the extension. Staff believes that a six month extension will provide sufficient time for 40 Russo Place to complete construction and file the necessary documentation to receive the final rebate. Further, Staff recommends that the final rebate amount should be \$38,000. This was the estimated rebate set forth in the original rebate commitment letter.


FINDINGS

Based on the above reasoning, and based on the unique factual situation of the 40 Russo Place project (Application No. MM05375), the Board **HEREBY APPROVES** 40 Russo Place's request for an extension of the CORE program rebate commitment deadline and authorizes the Market

Manager to issue an extension letter with a new rebate commitment deadline, which shall be six months from the date of the extension letter. The Board **DIRECTS** the Market Manager to issue a CORE rebate of \$38,000 to 40 Russo Place, upon satisfactory completion of the project in accordance with the extended deadline and all other applicable CORE Program requirements.

DATED: 4/16/10

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

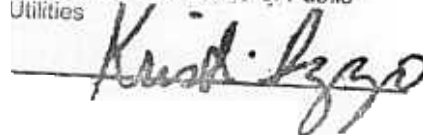

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
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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



IN THE MATTER OF THE CUSTOMER ON-SITE RENEWABLE ENERGY (CORE) PROGRAM
REQUEST FOR EXTENSION OF REBATE COMMITMENT DEADLINE:
40 RUSSO PLACE, LLC

Docket No. EO10010045

SERVICE LIST

Michel Winka
Office of Clean Energy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102

Benjamin S. Hunter
Office of Clean Energy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102

Allison E. Mitchell
Office of Clean Energy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102

Suzanne Dice-Goldberg
Office of Clean Energy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102

Cynthia Holland, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102

Rachel Boylan
Office of Clean Energy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102

Mark C. Annis, President
40 Russo Place, LLC
40 Russo Place
Berkeley Heights, NJ 07922