

September 8, 2005

**BY E-MAIL AND REGULAR U.S. MAIL**

Michael Winka, Director  
Office of Clean Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Re: Atlantic County Utilities Authority Request for Exemption from \$2.5 Million  
Annual CORE Rebate Cap for 2005

Dear Mr. Winka:

The Division of the Ratepayer Advocate (Ratepayer Advocate) provides the within comments pursuant to the e-mail notification we received yesterday concerning a request for exemption from the Clean Energy Program's \$2.5 million annual rebate cap in the Customer On-Site Renewable Energy (CORE) program.

It is our understanding that the Atlantic County Utilities Authority (ACUA) filed a request on September 6, 2005 for an exemption from the \$2.5 million annual rebate cap. Yesterday we received the e-mail notice from the Office of Clean Energy (OCE) requesting that if any members of the Clean Energy Council wanted to file comments on the exemption request that we should do so by the close of business today. The e-mail message also stated that the OCE plans to move the exemption request to the September 14, 2005 public agenda meeting of the Board of Public Utilities (BPU).

The OCE memo that was attached to the e-mail noted that without the exemption the ACUA would be limited to a CORE rebate amount of \$1.037 million in 2005 for the planned 499.5 kW photovoltaic (PV) system. The ACUA has requested to receive the full CORE rebate that would otherwise be approved if the applicant had not already been approved for a separate CORE rebate of \$1.463 million for a separate wind power project on its premises. It is our understanding that the rebate that would otherwise be applied but for the annual cap would be \$1.912 million. In effect then, it appears that the ACUA is requesting an additional rebate of \$875,000 for the planned 499.5 kW PV system, although that figure does not appear in the September 6, 2005 letter from the ACUA.

The Ratepayer Advocate notes that the OCE has granted to the members of the Clean Energy Council only one business day to provide comments on this important matter. Our office believes that for consideration of future exemption requests the OCE should consult with the Clean Energy Council to formulate a more reasonable process to review future exemption requests. This process should include sufficient time to receive background materials that help to document the applicant's entitlement to the exemption requested. The creation of this process could be discussed in future meetings of the renewable energy committee and should be formulated before any future exemption requests are received, if at all possible.

Understanding that the OCE believes that it is necessary to place this matter on the September 14 agenda, the Ratepayer Advocate provides these comments. From the attachment to the e-mail notice from the OCE, it seems that the ACUA has been able to document to the satisfaction of the OCE its entitlement to the exemption and that the ACUA has met all the relevant requirements for the exemption that the BPU mentioned in its April 13, 2005 order in Docket Number EO02120955. If

that is in fact the case, and the ACUA has provided to the OCE further documentation not contained in the September 6, 2005 letter request that provides a full factual basis to support the exemption request, then the Ratepayer Advocate would not object to the exemption being granted in this individual case.

One additional concern that our office has in this matter (and in all future exemption requests that will be considered) is whether or not the CORE program amounts that are available are getting close to being exhausted in the current application year. Our concern is that one entity's request for exemption from the \$2.5 million annual cap may negatively affect the ability of a different entity to receive a full rebate or even any rebate at all from the remaining funds. We are certain that all interested parties would not like to see the situation wherein one entity receives more than the annual cap figure if that results in some other entity receiving a reduced rebate or no rebate at all in that year. This concern can be addressed in crafting the process which we will use to review future exemption requests.

The Ratepayer Advocate thanks the OCE for this opportunity to comment on the ACUA's exemption request.

Very truly yours,

SEEMA M. SINGH, ESQ.  
RATEPAYER ADVOCATE

By: \_\_\_\_\_  
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Asst. Deputy Ratepayer Advocate

C: E-mail service list