MID-ATLANTIC SOLAR ENERGY INDUSTRIES ASSOCIATION

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December 3, 2010

Ms. Kristi Izzo
Secretary
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ

Dear Ms. Izzo:

Please accept the following comments from the Mid-Atlantic Solar Energy Industries Association (MSEIA) in regard to the NJCEP Transition White Paper for Stakeholder Discussion.

MSEIA offers the following answers to some of the questions posed in the document:

1. Overall Administrative and Management Options

"This document lists the four (4) options currently under discussion in connection with the transition of the administration of the NJCEP and the NJCEP programs. They are as follows:
1. Transition to the Utilities;
2. transition to a state agency;
3. transition to a trade organization, not for profit or for profit entity; and
4. transition to an energy efficiency utility.

Q. Do the 4 choices, above, cover all administrative options? Are there other administrative options to consider? Which of the options, in your opinion, works best for you, and why? Which current NJCEP programs should, or should not continue as rebate programs? Which current NJCEP programs should transition to revolving loans or financing programs? Which current NJCEP programs should function in the marketplace, without incentives? What programs, not currently part of the NJCEP program, should be included in the program transition? What is the time frame for this program transition?"

MSEIA Answer:

1. Transition to utilities:

In regard to renewable energy and more particularly solar energy programs, MSEIA believes that a transition to utilities deserves consideration. Already there are solar programs conducted by utility companies. These include the PSEG Solar Loan II program, the PSEG Solar4All program, and the Long-Term Contract programs of JCP&L, ACE, and RECO. Of these existing programs, the PSEG Solar Loan

II program has been the most successful in terms of engaging participation from all sectors of the solar industry and all rate classes, and in creating jobs and economic growth broadly within the solar industry. It has also been the most successful in reducing the cost of SRECs borne by ratepayers. If this program is expanded and continually improved, or if other programs can be developed that are able to accomplish the same goals; and if these programs can cover the whole or a majority of the solar market, then a transition of RE programs to utilities could be a successful strategy.

Transition to utilities has the advantage of a low probability that funds could be seized for purposes other than the intended uses.

If a transition to utilities is chosen, it would be important to structure the transition carefully so that strong stakeholder participation is part of the process of program design, implementation, and program refinement.

2. Transition to a state agency:

MSEIA believes that this option does not offer any important advantages over the current structure.

3. Transition to a trade organization or non-profit/for profit entity:

MSEIA believes that a trade organization may be hampered in its ability to fulfill this role by actual or perceived conflicts of interest.

A non-profit or for-profit entity seems unlikely to offer any important advantages over the current structure.

4. Transition to an energy efficiency utility:

MSEIA believes that this option deserves vigorous discussion and careful consideration.

A governmentally-created energy efficiency and renewable energy utility could possess characteristics very difficult to reproduce by any other method.

For instance, it has been widely recognized that in order to bring down the cost of market-based incentives (SRECs) and to spur investment, long-term contracts are required. However, this has proved to be extremely difficult to accomplish. It seems at times as if no appropriate entity exists with the capability or willingness to undertake long-term contracts efficiently – or at all. A central issue has been how to handle the risk inherent in a market-based incentive. The question of who bears the risk is a shell game; risk <u>always</u> bears a cost, and that cost inevitably is transmitted through the value chain, eventually landing on ratepayers - no matter what part of the value chain initially bears it. The only way to prevent the cost of risks from being transmitted to ratepayers is to eliminate them.

If a governmentally-created energy efficiency and renewable energy utility were to handle long-term contracts for market-based incentives, state government would undertake the risk, but would also control the primary source of risk – the legislation and regulations that structure those market-based incentives. Thus, risk and the cost burden on ratepayers associated with it could largely be eliminated.

This means that a governmentally-created energy efficiency and renewable energy utility could spur investment efficiently, and could be the lowest-cost option to deliver those market-based incentives, even if modest net revenues were generated by its operations.

The Delaware Sustainable Energy Utility that was mentioned twice in the Transition White Paper provides a precedent. It was structured so that it would handle contracts for the SRECs in Delaware. New Jersey is a very different market, so any such structure would have to be designed very carefully for our particular market realities, but MSEIA believes that the potential benefits warrant careful consideration.

2. Transition Planning

"Q. What should the overall timeframe be for transition planning and the transition? How should the planning inform the transition"

MSEIA Answer:

The transition, of course, is already underway and has been for some time. However, conditions do not yet exist for a full transition for the small solar systems market. As discussed elsewhere in these comments, changes and new structures are needed in the system of market-based incentives in order to enable a full transition. It is also necessary to have some overlap in order for New Jersey solar companies to have business continuity. New program structures need some time to be implemented and ramp up to speed as previous structures ramp down. MSEIA believes that it is likely to take until the end of 2011 for the transition to be completed, assuming that the BPU and other stakeholders progress steadily during that period.

4. Objectives

"The Objectives to consider as a guide in the discussion regarding the future structure of the NJCEP and the overall transition are:

1. Advancing the Governor's goal of enhancing economic development and job creation;
2. supporting the revised EMP goals;
3. transitioning from rebate-based incentive programs to programs that are more market-based, including public and/or private financing programs, and returning the funds to the administrator over time;
4. reducing the costs of administration of the NJCEP and utility managed EE and RE programs;
5. consistent, but not necessarily the same programs across the state; and
6. benefiting and supporting all ratepayer classes, directly or indirectly.

Q. Given the above objectives, what current programs should continue without modification, with modification, be reduced, eliminated or expanded"

MSEIA Answer:

MSEIA appreciates the priority given to economic development and job creation in the above set of goals. MSEIA members are primarily Jersey-based businesses. These are mostly small businesses that are native to New Jersey, and they create most of the permanent, high-paying New Jersey jobs that the solar industry has generated. Thus, in order to enhance economic growth and job creation, the programs that have been successful in creating this small business growth miracle should be continued until new programs can be created to accomplish the same goal.

The same diverse business ecosystem that includes these native small businesses, and the programs that support their growth, also serve a diverse set of ratepayer classes. Thus, achieving Goal No. 6 also requires continuing the programs that support small business growth, or creating new structures in the market-based incentive transition that will preserve room for them to continue to grow (not to mention, continue at all).

5. Program Concepts

"The OCE recommends that discussions center on three major program concepts as follows:

1. Elimination or phasing out of one-time consumer product rebate programs;

2. replacement of one-time rebate programs, including interest rate buy downs, with revolving loan financing programs for specific market sectors; and
3. establishment of competitively bid program(s) open to trade organizations, public organizations, or other entities for delivery in specific energy efficiency and renewable energy markets.

Q. Given the above program concepts what current programs should continue without modification, with modification, be reduced, eliminated or expanded?"

MSEIA Answer:

MSEIA believes that rebates can be phased out, but not until the market-based incentive programs are ready to play the role that rebates now play. This means especially that the market-based incentive programs need to be ready to support the small solar system market and the small business community that serves it. This is not yet the case, so MSEIA believes that the rebate program needs to be extended at least through 2011, while these changes are being prepared.

6. Societal Benefits Charge (SBC) Funding Levels and Rate Issues

"In 2008, the Board approved a four year funding program for the NJCEP that established a funding level of $319.5M for CY 2011. This increases to $379.25M in CY 2012.

Q. Should SBC funding continue at its current level? Should the SBC be eliminated and, if so, in what time frame? If it is eliminated, what type of structure should replace the SBC, if any? In what time frame?"

MSEIA Answer:

Regarding the solar energy market, for the transition to market-based incentives such as SRECs to succeed alone, they need to be changed and further structured in order to:
a. preserve and grow the diversity of the solar market;
b. enhance the ability to create in-state economic growth and jobs, particularly small business growth;
c. ensure direct participation of all rate classes;
d. encourage the infusion of cost-efficient capital into the state;
e. and lower the cost to ratepayers.

If this can be accomplished soon, then MSEIA believes that the SBC collection rates could be reduced after 2012. However, consideration should be given to determine whether some level of SBC funding could be used to enhance the efficiency and efficacy of the market-based incentive program to accomplish the above goals.

9. NJCEP 2011 Budget and Programs

"Q. Should there be a continuation of the programs in the current OCE staff straw proposal for the 2011 NJCEP budget? If not, what structure should replace the current programs? Is there a specific program in the residential EE market that should be continued, reduced, increased or eliminated, and why or why not? Is there a specific program in the commercial and industrial EE market that should be continued, reduced, increased or eliminated, and why or why not? Is there a specific program in the RE market that should be continued, reduced, increased or eliminated, and why or why not? In light of the objectives of the transition, and the transition program concepts listed above, what current NJCEP EE or RE programs should be transitioned to a revolving loan or financing program, and when should this occur?"

MSEIA Answer:

MSEIA repeats here its comments regarding the proposed 2011 budget, as submitted previously:

MSEIA believes that the proposed 2011 budget effectively ends the long-standing support for the small business sector of the PV industry and for participation of the residential and small commercial/non-profit ratepayers.

In the rebate-driven incentive environment in previous years, careful choices were made to segment the incentives with attention to multiple public policy motivations. Among these motivations, small-business economic growth and job creation figured prominently. Explicit attention was also paid to the prospect for residential ratepayers (who pay over 38%-40% of the costs of renewable programs) and of small commercial/non-profit entities, to have at least the *opportunity* get a share of their money back by participating directly in the programs.

The conscious attention paid to these factors in the policy-making process paid off. The residential market sector occupied 22% of the market. Even though this market share is below the share of costs paid by that sector, and below the level in other large solar markets, it was regarded as a pretty good result by MSEIA. Hundreds of small businesses were created and grew in the state, creating thousands of high-quality New Jersey jobs. A whole new industry was created that today consists not only of solar installers and manufacturers, but also major New Jersey engineering firms, architectural firms, contractors, law firms, and financial companies & banks that are sustained by the solar market.

The NJCEP Transition Position Paper affirms the same motivations. Under "Section 4. Objectives", It lists six "Objectives to consider as a guide in the discussion regarding the future structure of the NJCEP and the overall transition". The first of these Objectives is "Advancing the Governor's goal of enhancing economic development and job creation". The sixth is "benefiting and supporting all ratepayer classes, directly or indirectly".

MSEIA recognizes the desire to transition away from rebate-based programs, and believes that it is possible to accomplish this without destroying the small business ecosystem that has grown, or abandoning the motivations mentioned above. Unfortunately, the SREC program is not ready to fulfill this function. Attempts to make it ready have been slow to materialize, and have run into opposition, particularly from the Office of the Rate Counsel. Therefore, MSEIA believes that if the Objectives discussed above are to be achieved, it will be necessary to ramp down the rebate program more slowly, while taking stronger action to modify the SREC structure to accommodate small solar systems.

The Board and members of MSEIA thank the BPU for the opportunity to submit these comments.

Sincerely,

Lyle K. Rawlings, P.E.
President

Dennis Wilson
Vice-President, New Jersey

The Solar Alliance

THE SOLAR ALLIANCE MEMBER COMPANIES

American Solar Electric
Applied Materials
Borrego Solar
BP Solar
Community Energy
Conergy
enXco
First Solar
Kyocera
Oerlikon Solar
Mainstream Energy
Mitsubishi Electric
Sanyo
Schott Solar
Sharp Solar
SolarCity
Solaria
Solar Power Partners
SolarWorld
Solyndra
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SunPower
SunRun
Suntech
Tioga Energy
Trinity Solar

December 3, 2010

NJBPU Office of Clean Energy
44 S Clinton Ave
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Trenton, NJ 08625-0350

To the Office of Clean Energy Staff, New Jersey Board of Public Utilities:

The Solar Alliance is pleased to submit the following comments in response to the Office of Clean Energy's request for stakeholder input on the Transition Proposal for the Board of Public Utilities, Office of Clean Energy. The Solar Alliance is a coalition of approximately 30 of the largest photovoltaic (PV) solar development and manufacturing companies in the United States, dedicated to the advancement of state legislative and regulatory policies that support solar photovoltaic energy and help capture associated economic development opportunities. OCE Staff's request for comments is timely, since the New Jersey solar market is at a critical juncture, with millions of dollars of private capital being put at risk. It is imperative that the BPU's transition plan continue to support the development of New Jersey's competitive solar marketplace through a market structure that is stable, transparent and minimizes regulatory risk; with an administrative support function that is dependable and efficient. Our comments will offer recommendations on Administration and Program Direction.

BACKGROUND

New Jersey has a vibrant solar industry, employing more than 3500 people[1]. Solar developers have installed more than 6,900 commercial, residential and utility scale solar energy systems in New Jersey, generating more than 210 MW of total capacity.[2] The solar industry is one of the few segments of the New Jersey economy that is growing and drawing increasing amounts of private investment. The state is second only to California in total installed capacity[3] and is now installing more than 10MW per month, a run rate that doubled from 2008 to 2009 and doubled again from 2009 to 2010. [4] As a result, more than 6,000 businesses and residents are now receiving the benefits of lower energy costs and a return on their local investment in infrastructure. In this way, solar power acts as a powerful hedge against volatile and generally rising energy costs, helping homeowners and New Jersey-based businesses retain jobs and invest energy savings back into their operations.

New Jersey has already put in place key building blocks to realize its solar potential. The Solar

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[1] Navigant Consulting; 100 MW of Distributed Solar PV Supports 1,500 to 3,000 direct and 6,690 to 13,380 indirect/induced jobs. The Solar Foundation (2010); survey of 67 NJ solar companies (less than half of total) employed 1,475 in 2010 and planned to employ 1,875 in 2011 (a 27% increase in NJ in comparison to a 19% increase expected nationally).

[2] Board of Public Utilities; New Jersey Clean Energy Program (NJCEP) Installation Summary reports as of 9/30/10.

[3] Greentech Media (October 2010)

[4] Board of Public Utilities; New Jersey Clean Energy Program (NJCEP) Installation Summary reports as of 9/30/10.

Energy Advancement and Fair Competition Act set the stage for nearly 5GW of solar energy by 2026. It is estimated that installing 5GW of solar energy will create about 80,000 direct jobs and more than 300,000 indirect jobs,[5] reduce in-state wholesale electricity prices for all rate-payers, cut peak LMPs by more than $50/MWh and generate about a $460 million annual benefit; as energy prices increase, these benefits increase proportionally.[6] The installation of 5GW of solar energy will give more than 150,000 New Jersey residents and businesses the chance to directly invest in solar, reduce their energy costs and generate positive returns on their investment,[7] drawing more than $15B of private investment in local plant and equipment.[8] It is essential to the continued growth of the New Jersey solar industry that the OCE implement a transition plan that will fairly and effectively administer the programs that support New Jersey's economic recovery.

ADMINISTRATIVE RECOMMENDATIONS

The Solar Alliance believes that there are a number of possible administrative arrangements within which to "house" the SREC market management function. The options include: maintaining the status quo, with external administration by market managers; administration by OCE staff; and administration by the utilities, using NERA. In any of these scenarios, it is vital in perception and reality, that the market manager be competitively neutral and have no financial interest in the market. In the context of the SREC program, centralized administration is essential to prevent fragmentation of the market. The Solar Alliance prefers having a market manager or OCE Staff manage the programs, provided there is sufficient funding available to fund the personnel, IT and other components necessary to operate with greater efficiently and effectiveness. Should the utilities be given the responsibility for the programs, there should be uniformity of program, with joint administration by the utilities through a contractor like NERA. Whichever alternative is selected, there should be a performance requirement ; SREC registration confirmation should be completed by automation to the greatest extent possible and

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[5] Navigant Consulting; 100 MW of Distributed Solar PV Supports 1,500 to 3,000 direct and 6,690 to 13,380 indirect/induced jobs.

[6] NJ Peak Energy prices (LMP) in 2001 to 2009 ranged from $156 - $378/MWh. [CEEEP EMP Prelim Data 8/13/2010]. Wholesale electricity price reduction analysis was completed by drawing on similar studies done by PJM, JBS Energy, and Mr. Richard Perez of SUNY Albany. [Mid-Atlantic States Cost Curve Analysis, JBS Energy, Inc., Dec 2000] [http://www.asrc.cestm.albany.edu/perez/directory/LoadMatch.html]. Black & Veatch also completed a similar analysis of the proposed changes to Pennsylvania's alternative energy portfolio standard. They estimated the total wholesale price suppression benefit of an Alternative Energy Portfolio to be as much as $3.5 to 6.2 billion over the life of the study, a portion of which would come from solar with a solar target that was nearly identical to New Jersey's. [http://www.cfalleghenies.org/pdf/aepss_executive-summary.pdf]

[7] Board of Public Utilities; New Jersey Clean Energy Program (NJCEP) Installation Summary reports as of 9/30/10. 6,971 projects account for 210.7MW. If average system size remains constant, 5GW of solar energy would be accounted for by 165,425 projects.

[8] Assumed current system cost of $7.72/watt, a continued 3.5% per year decline in system cost for 15 years, and 50% host or owner investment after Federal tax incentives and State rebates

should not exceed 2 weeks. Finally, any transition should be as seamless and expeditious as possible to avoid unanticipated market disruptions.

The SREC program manager plays two functions that are absolutely essential to the efficient operation of the market. First, the program manager ensures the timely registration of projects for SREC program eligibility based on a fair and impartial review of qualifications. Secondly, the program manager provides objective, quantitative information regarding actual market conditions to facilitate prudent investment decisions by market participants. Whatever administrative arrangement is selected, these two functions must be adequately staffed and funded.

The Solar Alliance appreciates and supports the BPU's objectives to minimize administrative overhead associated with all programs, including the SREC program. The Solar Alliance further believes it is possible to reduce administrative costs, even as the number of applicants to the program continues to grow exponentially if current efforts to streamline paperwork and review are followed through on and sufficient up-front resources are dedicated to the development of a web-enabled registration program. These objectives are entirely appropriate in the shift to a production-based incentive program. Should these measures be carried out, we believe it is possible that countless person-hours can be saved and the current lead-time for project review and registration can be compressed significantly with attendant savings.

Further, the Solar Alliance believes that the continued shift away from a rebate-based to an SREC-based program will, in and of itself, promote administrative efficiency. In simple terms, if the solar system doesn't produce, it will not generate SRECs, so there is less need than under an upfront rebate program for a rigorous technical review. It should be cautioned, however, that other program constructs, such as a shift to a revolving loan fund, or the establishment of a new administrative apparatus could erode these efficiency gains.

PROGRAM DIRECTION

At the Board's August caucus public hearing, there was a very interesting and profound colloquy among the commissioners regarding the respective roles of the BPU and the legislature in defining New Jersey state energy policy. President Solomon expressed some discomfort in the Board setting public policy; and more specifically in the Board picking technology "winners and losers."

It should be borne in mind, that at least with respect to the future of solar PV in NJ, the legislature has <u>already</u> spoken – setting basic incentive program goals and establishing the basic building blocks of a market-based incentive program. Thus, within the context of the ongoing discussion of a NJCEP transition, we believe that the pertinent question is not whether this program will be implemented, but rather how it will be most effectively realized while minimizing the overall costs and risks to ratepayers.

The Solar Alliance is supportive of specific programmatic/budgetary changes noted in the draft transition plan, including the rapid move away from rebates. We also support the transitional proposal. wherein rebate eligibility is made conditional on participation in the EDC SREC Finance Program. The latter will facilitate greater reliance on long-term contracting for SRECs and lower

the overall cost of compliance. The SREC Finance Program and the Solar Loan Program have been essential tools in fostering long-term contracting for SRECs. We believe these programs should continue to be supported and extended.

CONCLUSION

The Solar Alliance has offered administrative and program recommendations, which allow the BPU to contain expenses, maximize rate-payer benefit and remain a champion of the solar industry, which is a driving force of economic recovery and job growth in the State. In order for this to continue, it is critical for the BPU to remain committed to the advancement of New Jersey's solar industry in the emerging energy marketplace. It is essential that the market remain transparent and secure. In order to provide peace of mind to lenders, the BPU must provide the industry with a business climate that limits regulatory risk. With that goal achieved, the solar industry, together with the BPU, will continue to enhance the prosperity of the State.

Thank you for your consideration of these comments.

Respectfully submitted,

Suzanne Patnaude
Director, Mid Atlantic Region
Solar Alliance

December 3, 2010

President Lee Solomon
Board of Public Utilities
State of New Jersey
Two Gateway Center – Suite 801
Newark, NJ 07102

Dear President Solomon:

Thank you for the opportunity to provide comment on the transition of the New Jersey Clean Energy Program's structure. We are a diverse group of home improvement contractors, renewable energy companies, environmental groups, clean energy advocates, local community groups, and others with a vested interest in New Jersey's energy future. We have come together because we strongly support New Jersey's successful clean energy programs. Given the programs' successes to date in promoting energy efficiency and renewable energy, we welcome the opportunity to advocate for strong and robust clean energy policy.

Because of the ways that we produce and consume energy in New Jersey, we have some of the most polluted air in the nation. By supporting and expanding New Jersey's clean energy programs, we not only help clear the air, but we also support a burgeoning clean energy economy that is already creating thousands of jobs for New Jerseyans. And promoting the use of lower-cost resources contributes to a more competitive economy, which means jobs and continued economic growth for New Jersey.

We urge the Board of Public Utilities (BPU) to do everything in your power to continue and expand New Jersey's successful clean energy programs. With your leadership, our state can continue to promote clean energy, reduce energy demand, create good-paying jobs that cannot be outsourced, help taxpayers save money, and become the nation's clean energy leader.

As the BPU weighs the future of New Jersey's clean energy programs, we urge you to consider a few key principles:

- **Efficiency first**: Deploy all cost-effective energy efficiency efforts before investing in new traditional generation. These investments will reduce the need for expensive and polluting new power plants, will contribute to system reliability to 'keep the lights on,' and will lower energy costs for all New Jersey taxpayers.
- **Promote renewable energy**: In recent years, solar and wind energy investment has blossomed in New Jersey, creating a nationally-revered clean energy sector that is generating clean energy, attracting further investment, and creating thousands of new jobs. Research and development of new, emerging renewable technologies should also be supported to continue our state's cutting-edge leadership in renewable energy.
- **No diversion**: Preserve ratepayer funds, including the Societal Benefits Charge (SBC) and the Regional Greenhouse Gas Emissions (RGGI) fund, and ensure that

all monies collected are spent to support efficiency and renewable energy programs, as the Legislature intended.

- **Consistency statewide**: New Jersey's nationally recognized programs have been hurt by abrupt changes in funding levels and program rules. Businesses - especially small and growing enterprises - need stability, a uniform statewide approach to minimize confusion in the market, and a multiyear commitment so they can plan and retain and create badly needed skilled jobs.
- **Target all classes, all fuels**: To ensure equity, programs need to reach all energy users, including residential, public, commercial, and industrial customers. Furthermore, programs should be fuel-neutral, allowing for a comprehensive approach to reduce consumption of traditional energy sources, including electricity, gas, heating oil.

As mentioned above, a robust energy efficiency and renewable energy program helps New Jersey achieve many important goals simultaneously: It rapidly creates jobs in small and medium-sized businesses that source 90% of materials locally; it contributes to energy independence and lowers the cost of doing business in the state; it helps reduce household energy bills; it improves health, safety and comfort in the home and catalyzes New Jersey homeowners to co-invest in their property; and it reduces greenhouse gas emissions and other air and water pollutants. As the BPU considers potential structures for a robust and dynamic clean energy sector in New Jersey for 2012 and beyond, we urge that you consider the above principles in whatever new structure is adopted. In this way, New Jersey will maintain its competitive position among the vanguard of states investing in a clean energy future.

Sincerely,

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Comments to the New Jersey Board of Public Utilities
NJCEP Transition White Paper for Stakeholder Discussion (11/4/2010)

December 3, 2010
MaGrann Associates

Regarding: Page 14 comment: "*The residential new construction program can be eliminated or significantly reduced in scope, given new energy building codes.*"

Response:

New Jersey's home buyers, builders, ratepayers and environment would lose if the residential new construction (RNC) program were eliminated or significantly reduced in scope. These comments make the following observations:

- New Jersey would drop in its ranking of top-rated RNC programs nationally;
- Opportunities to promote efficiency above minimum code levels would be lost;
- Achieving New Jersey's climate goals will be more difficult;
- The positive cost-effective benefits that accrue from the RNC program will be lost;
- Training of builders and subcontractors that enable achievement of code and higher efficiency levels will be hampered;
- Builders will have a very difficult time achieving the significantly more stringent future codes without a good deal of support preparing for those new codes;
- Savings of end-uses not addressed by codes will be lost without a program that covers those; and
- Without a program to encourage builders to construct to ENERGY STAR and higher levels, builders tend to just build to meet code levels, leaving savings opportunities that a program would be able to capture.

New Jersey is a national leader in RNC, having constructed over 62,000 above-code program completions since 1987 (over 44,000 ENERGY STAR homes and nearly 18,000 other efficient program homes). Through the support of New Jersey's statewide, all-fuels ENERGY STAR Homes Program, New Jersey has been able to reach a point where about one third of all new housing units built annually have exceeded code by 15% to 20% or more. In 2009, in spite of a depressed housing market, 3,299 ENERGY STAR homes were constructed in New Jersey, which places the state in the top 15 in the U.S. in terms of ENERGY STAR market share, according to the U.S. EPA. Without New Jersey's program support for moving builders to these higher energy efficient standards, New Jersey would not be anywhere near this rank or be generating

the level of energy savings and greenhouse gas reductions that it is. Codes alone cannot achieve these levels.

Eliminating or significantly reducing New Jersey's RNC market will reverse many of the gains made over the past 23 years of program support for RNC. The state will lose opportunities to influence long-term decisions made daily by builders while losing a program that delivers energy savings benefits that exceed the costs to operate. Curtailing critical builder training that prepares the market for new and enhanced codes will hamper the effectiveness of those new codes. Focusing only on the floor allowed by law (codes) without leading builders to higher levels of performance will negatively impact savings for homeowners and climate goals for the state. Reaching the ultimate goal—Zero Energy homes—will be virtually impossible using only codes. These points are covered in more detail below.

Lost Opportunity. If builders' decisions about what energy features go into a house aren't positively influenced before they are made, New Jersey loses the opportunity to construct an energy efficient house. Relying on code alone, and not encouraging builders to construct at above-code levels, results in savings opportunities that are lost forever. Buildings that aren't constructed to optimal efficiency levels above code become buildings that have to be treated with retrofit programs later at much greater expense.

The RNC program is critical for affordable housing projects which rely on the RNC program to ensure the lowest operating costs to ensure long-term housing affordability. Participating non-profit developers would be adversely impacted by the loss of this program.

Cost-Effective. New Jersey's RNC program is cost-effective. Rutgers conducted a cost-effectiveness screening in 2008 that showed that the cost-savings benefits of running the New Jersey ENERGY STAR Homes Program were greater than it cost to run (Total Resource Cost Test Benefit/Cost Ratio of 1.38) . This is a service to all ratepayers and especially benefits homeowners who live is these more efficient homes.

Training Builders. Codes are an effective means of advancing the energy efficiency of new construction by pulling up the laggards. However, just ramping up codes without a support network for builders will only frustrate all involved and will not achieve the desired savings. A strategic approach to training and engaging all builders in energy efficiency techniques and technologies as part of a new construction program will ensure that they are ready to accept these new requirements once they become code in future revisions. Program training to builders and subcontractors also benefits New Jersey through spillover effects (as the 2009 KEMA RNC Program Impact Evaluation pointed out) where they apply the lessons learned to other projects outside the RNC program. In addition to the benefits of training to meet code, there are also substantial benefits of training as a means of moving builders beyond code.

Builders can only move towards constructing Zero Energy homes with continual and effective training. If the training is in the context of an RNC program or program performance level (e.g. Climate Choice Homes), it provides an even greater justification to participate in that training.

Preparing the Market for New Codes. New versions of the IECC code are becoming more complex. In New Jersey, blower door testing for house air leakage and duct leakage testing are both part of compliance options within the 2009 version and will become mandatory in the 2012 version. (Note: Full adoption of IECC 2009 testing standards was postponed until 2012 by NJDCA in recognition of the depressed New Jersey housing market.) IECC 2012 is 30% more efficient than 2006, and the 2015 version is aiming at 50% savings relative to current codes. If New Jersey follows the IECC adoption path, we will need to have an infrastructure in place that can support these performance testing requirements. HERS raters overseen and supported by the RNC program currently provide those tests as a standard part of ENERGY STAR homes qualification. The state will need these raters and more as at least a transition strategy to training and certifying code officials in performance testing. As code officials are unlikely to choose to get into energy performance testing delivery, the energy rater market will likely respond to code testing needs by growing to meet demand. In either case, the RNC program can serve as the support organization to provide training and certification support, while ensuring that the testing standards are upheld through a robust quality assurance oversight role.

In addition to the performance testing component of new codes, the RNC program plays a critical role in introducing other more stringent aspects (e.g., 50% fluorescent lighting, higher insulation levels, tighter construction techniques, etc.) to the building community. As part of the RNC program, builders have the opportunity to develop their skills and understanding of how to reliably and cost effectively meet the above-code program standards before compliance becomes mandatory through code updates. Additionally, suppliers start stocking the materials and equipment builders request as part of the RNC program, so that these items are available once the new code is enacted. This results in a much smoother transition period for code officials and ensures greater compliance with code once enacted.

In addition to preparing the market for new codes, an RNC program is important to helping builders prepare for new and enhanced versions of voluntary programs, such as ENERGY STAR Homes. As EPA rolls out Version 3 of ENERGY STAR Homes over 2011, builders and the trades will need training to understand and meet all of the new program requirements (e.g., new HVAC Quality Installation, Thermal Enclosure System and Water Management System Checklists). This new version of ENERGY STAR will move the bar up another 15% above current ENERGY STAR levels (i.e. 30% above IECC 2006 *and 15% above* IECC *2009*). Training is necessary to ensure success with both codes and ENERGY STAR verification.

Capturing More Savings than Code. The IECC codes focus primarily on savings from space conditioning (heating and cooling) energy. The RNC program provides a comprehensive whole-house energy perspective and so it is able to focus on saving energy in areas beyond heating and cooling, including water heating, lights and appliances.

As was seen prior to the introduction of RNC programs in New Jersey and elsewhere, builders tend to only do just what is needed to meet code. An RNC program provides a vehicle to assist and reward builders to construct beyond code, and the market has been shown to respond when there is an option to differentiate new homes by having an ENERGY STAR Homes and HERS rating system in place.

Conclusion. While codes are an effective means of setting a theoretical minimum level of energy efficiency for new homes, they still need to be adhered to and the market needs to be ready, willing and able to comply. A partnership between the DCA and an RNC program is the best means of achieving New Jersey's goals of effectively and significantly increasing the energy efficiency of new homes in the state. Preparing and supporting the market is the best way to ensure that builders are ready to comply with an ongoing schedule of new, more stringent code revisions.

As New Jersey looks out 10 to 20 years with a goal of zero net energy for all new buildings, it will be very challenging to achieve those standards without some support from an RNC program available consistently statewide. This is the ultimate goal for new building standards, yet it will take a good deal of training, support and hand-holding to get there. This cannot be provided through traditional code and code enforcement processes alone.

Sincerely,

Mark MaGrann

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December 3, 2010

VIA EMAIL AND
REGULAR MAIL
Honorable Kristi Izzo
Secretary
State of New Jersey
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, New Jersey 07102

Subject: Comments on the New Jersey Clean Energy Programs Transition Paper

Dear Secretary Izzo,

Rockland Electric Company ("RECO" or the "Company") is in receipt of the New Jersey Clean Energy Programs Transition Paper dated November 4, 2010 ("Transition Paper"). The Transition Paper was issued by New Jersey Board of Public Utilities ("Board") Staff to provide its preliminary and conceptual position on the proposed Clean Energy Program transition. Pursuant to the Notice of Revised Public Hearing and Request for Comments issued November 10, 2010, as revised by a memorandum from the Office of Clean Energy dated November 19, 2010, RECO respectfully submits its comments on the Transition Paper.

Background

As a preliminary matter, RECO continues to support the State's objectives to reduce energy costs and advance environmental and economic development goals through energy efficiency, demand response and renewable energy programs. RECO and the State's other investor-owned utilities have played an important role historically in bringing energy efficiency to their customers and customers will continue to benefit from increasing utility involvement in the delivery of these programs. Toward this end, the Company appreciates the opportunity to provide comments on the Transition Paper.

RECO is a public utility engaged in the distribution of electricity and the procurement of Basic Generation Service for residential, commercial and industrial customers within the State of New Jersey. RECO is a wholly-owned subsidiary of Orange and Rockland Utilities, Inc. ("O&R"), a New York electric and gas utility, which in turn is a wholly owned subsidiary of Consolidated Edison, Inc. RECO provides service to approximately 72,000 electric customers in northern Bergen and Passaic Counties and small sections of Sussex County. RECO's customer base includes approximately 63,000 residential customers and approximately 9,000 commercial and industrial customers, the overwhelming majority of which are small businesses with less than 100 KW of demand. RECO's residential customers include approximately 650 customers currently enrolled in the Universal Service Fund program.

RECO is uniquely positioned in that it is the only New Jersey utility that is served through two regional wholesale electric markets. RECO's eastern division (which contains approximately 90% of the Company's load) is served through the PJM Interconnection, while its central and western divisions (containing the remaining 10% of the Company's load) are served through the New York Independent System Operator. This dual service structure requires special attention in the development of demand response and renewable programs for RECO's service territory because of differences in demand response programs and issues associated with potential renewable energy grid interconnection and credit accounting between the regional transmission operators. RECO's service territory is geographically adjacent to O&R's service territory, which includes Rockland, Orange and parts of Sullivan Counties in New York. O&R currently operates a portfolio of energy efficiency programs in its New York service territory addressing the needs of its residential, small business and large business customers.

RECO currently has two energy efficiency programs in New Jersey, both of which were approved through RGGI filings as part of the State's economic stimulus efforts and both of which are scheduled to end on December 31, 2010.[1] The programs are a Residential Enhanced HVAC Rebate Program and a Low-Income Direct Install Program. RECO anticipates filing with the Board to extend these programs, utilizing its current funding, for an additional year (i.e., through December 31, 2011). RECO is also developing an on-line energy audit program. RECO does not currently participate in the statewide Comfort Partners Program.

Comments

RECO supports a utility-run model for New Jersey which would allow utilities to tailor programs to the unique characteristics of their service territories. There are a host of reasons why such an approach is the most appropriate structure for the delivery of programs to New Jersey customers.

RECO has specific knowledge of and experience in its service territory, access to its customers and customer information, and expertise in the areas of energy efficiency, smart grid, infrastructure development, integration of renewable energy into the distribution system, transmission and distribution loss analysis and power quality and reliability solutions. While a statewide perspective is helpful in some situations, New Jersey's individual utility service areas are diverse and each utility will have different priorities that reflect the needs and interests of its customers. Customers benefit when service territory specific issues are addressed. RECO's service territory is substantially developed, but has no urban areas, no hospitals, few multi-family developments, few large industrial customers, and relatively few low-income customers. It does

[1] *I/M/O the Verified Petition of Rockland Electric Company for Approval of an Energy Efficiency Program and Associated Cost Recovery*, Dkt. No. EO09010061, Decision and Order Approving Stipulation (dated November 23, 2010).

have a vibrant small business population and a footprint consisting of larger than average homes. RECO does not believe that its customers will benefit from a one-size fits all approach to energy efficiency.

RECO's parent, O&R, has demonstrated its ability to effectively implement energy efficiency programs in its New York service territory. O&R has implemented a Gas Residential HVAC Rebate Program that surpassed its three-year targeted energy savings in less than two years and under-budget. It has implemented a Small Business Direct Install Program that has resulted in approximately 800 customers receiving an energy survey, 350 receiving energy efficient lighting, and an average per month savings approaching 1,200 MWhs in less than a year and a half. It recently implemented a Commercial and Industrial Existing Buildings Program that achieved over 350 MWhs of savings its first two months of operation. O&R is currently awaiting New York State Public Service Commission approval of a Residential Efficient Products Program which has a projected Total Resource Cost ratio of 1.5. RECO believes that it can use the abilities demonstrated by O&R, in concert with its territory specific knowledge and experience, to develop and implement successful energy efficiency programs for its own customers. For example, the Small Business Direct Install Program that O&R runs in New York would be well-suited to RECO's New Jersey service territory. Extension of this program would allow the Company to utilize a program that has already demonstrated value in a total resource cost analysis, is already being successfully implemented with contractors that can undertake the same services in New Jersey, and includes a marketing campaign that has already been developed and launched.

Further, consistency in program design, incentives, and rules throughout the State is not only unnecessary, it may be counter-productive to achieving the most cost-effective programs, to marketing programs successfully, and to providing customers the programs they want. To the extent there are differences between service territories in system peaks, appliance saturation and housing stock, there also should be differences in program design in order to maximize program benefits. For instance, an incentive program for central air conditioning needs to take into account the level of central air conditioning saturation, the cost of installing a new energy efficient system in the area, and the average hours that a system runs during the year in order to determine the cost-effectiveness of the program. These numbers may vary depending on whether you live on the shore, in the mountains, in a congested urban area, or in a rural southern area. One size does not fit all. Additionally, there appears to be a widespread (and in our view incorrect) assumption that a utility's customers are generally familiar with the details of every energy efficiency, demand response and renewable energy program currently available in every other service territory in the State and necessarily want access to all such programs. While this may be true if a customer's primary source of program information is a statewide website, such as the current Office of Clean Energy site, it is not accurate if a customer looks to the utility and its website for information or obtains more regional information from radio advertisements. In these circumstances, a customer is just as likely to want access to the programs that its utility's

affiliate is offering across the state border. Indeed that has been RECO's experience. Our inability to provide the same services for RECO's New Jersey customers as are provided to O&R's nearby New York customers is often a source of frustration to customers and to local contractors who do business in both states.

In addition, a one-size fits all approach to energy efficiency will contribute to significant cross-subsidies across service territories to the detriment of RECO's customers. RECO's experience with the Comfort Partners program highlights this problem. While cited by some as a statewide success story, the program has failed to provide meaningful benefits to RECO's customers. In November 2005, the New Jersey utilities entered into a New Jersey Comfort Partners Program Services Agreement for providing Labor and/or Materials ("Services Agreement") with Honeywell DMC Services, L.L.C. ("Honeywell DMC"). Under the Services Agreement, Honeywell DMC provided all of the labor and material for Comfort Partners and had primary responsibility for recruiting individual program participants. Pursuant to a contract entered in 2001, Public Service Electric and Gas Company administered the Comfort Partners Program for RECO. From 2005 through 2008, ***less than 40 customers*** in RECO's service territory participated in the Comfort Partners program. In the 2008 Comfort Partners' budget, RECO's allocation was $7,500 out of a total budget of $25 million. In contrast, RECO's Low-Income Direct Install Program, which it initiated in June 2010 as part of its Economic Stimulus Energy Efficiency Programs, has enrolled 123 customers – 23 more than its goal of 100, and measures already have been installed for 72 of those customers. RECO anticipates filing with the Board to extend this program, utilizing its current funding, for an additional year (i.e., through December 31, 2011).

For these reasons, the appropriate transition to consider at this juncture is the transition to a new utility-run administrative model that allows for the development of service territory specific programs that are tailored to the unique characteristics of their service territories and that can leverage pre-existing energy efficiency infrastructure. The issues to consider with respect to such a transition include not only cost containment, cost effectiveness, and the effective use of resources to meet the State's environmental, energy efficiency and economic development goals, but the avoidance of cross subsidies as well. Because the utilities have direct access to customers and customer usage information, they are in the best position to design programs that meet the needs of their customers and then effectively market and manage those programs, so that maximum customer value is achieved for each program, for each customer. Additionally, customers view their utility as a source for energy efficiency information. By focusing on their service territories, utilities avoid wasting time, energy and resources supporting programs that will have limited application to their customers. While agreements may be reached by multiple utilities to coordinate programs statewide, this should be implemented on a voluntary basis and not as a model mandated for the statewide application of all programs, such as the existing portfolio of Clean Energy programs or new versions thereof. It is important that the utilities that

may have limited resources, not be required to "spread those resources too thin" by overseeing programs that provide only nominal value to their customers.

Moreover, moving the administrative model to one that is utility-run avoids the unnecessary waste of additional costs and time associated with establishing a brand new structure, such as an energy efficiency utility. Particularly in these trying economic times, the resources and time required to establish a new bureaucratic organization, that would still require Board oversight and, apparently, utility participation, plainly can be more beneficially applied to other pursuits such as the programs themselves. If the State is to make meaningful progress towards its Energy Master Plan goals, it cannot be in the position of re-inventing its administrative model for energy efficiency programs every three to four years.

Additionally, the regulatory model should continue to accommodate RGGI filings to implement utility-run energy efficiency programs designed to meet the needs of the individual utility service territories. Utility filings submitted under RGGI filings that allow for appropriate cost recovery and earnings opportunities for the utilities may provide the best means for a utility to meet the State's energy, environmental and economic development goals. The State should not require a less effective and potentially more costly administrative model simply to avoid additional filing requirements and review processes.

Program ownership by each utility and a fair opportunity to recover costs and earn incentives will foster initiative and accountability. However, to the extent the State does not embrace such a utility-run model where utilities have the ability to design and select the programs best suited to their services territories, then a centrally run model that does not require utility participation (but allows for utility input) appears to be the next most favorable option for minimizing administrative costs. While certain collaborative efforts are important to meeting the State's Energy Master Plan goals, collaborative administration of energy efficiency programs will necessarily be a time-consuming and, therefore, expensive proposition. Absent program ownership by each utility, consistent statewide programs designed with statewide goals and run by, or under the direction of, a single state entity with advisory input from the utilities will be more efficient than models requiring the participation and coordination of multiple parties. As noted above, the consistent statewide model run by a single entity does not mitigate cross-subsidization or address geographical inequities in program delivery. It would, however, avoid the redundancies and associated additional costs inevitably resulting from involving multiple parties in administering the exact same program on a statewide basis.

We thank the Board for this opportunity to submit comments on a plan of transition for the Clean Energy Programs.

Very truly yours,

John L. Carley/jpg

John L. Carley
Assistant General Counsel