Agenda Date: 5/23/12
Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCE ANALYSIS FOR THE YEARS 2009 -2012: REVISED 2012 PROGRAMS

ORDER

DOCKET NOS. EO07030203 and EO11100631V

Joe Gennello, Honeywell Utility Solutions
Diane Zukas, TRC Energy Services
Stefanie A. Brand Esq., Director, Division of Rate Counsel

BY THE BOARD:

This Order memorializes action taken by the Board of Public Utilities ("Board") at its May 23, 2012 public meeting, where the Board considered proposed modifications to 2012 programs for New Jersey's Clean Energy Program.[1]

BACKGROUND AND PROCEDURAL HISTORY

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA") was signed into law. EDECA established requirements to advance energy efficiency and renewable energy in New Jersey through the societal benefits charge. N.J.S.A. 48:3-60(a)(3). EDECA further empowered the Board to initiate a proceeding and cause to be undertaken a comprehensive resource analysis ("CRA") of energy programs, which is currently referred to as the comprehensive energy efficiency ("EE") and renewable energy ("RE") resource analysis. Ibid. After notice, opportunity for public comment, public hearing, and consultation with the New Jersey Department of Environmental Protection ("DEP"), within eight months of initiating the proceeding and every four years thereafter, the Board determines the appropriate level of funding for EE and Class I RE programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of February 9, 1999. These programs are now called New Jersey's Clean Energy Program (the "NJCEP").

The budgets approved in this Order are subject to State appropriations law.

By Order dated April 27, 2007, Docket No. EO07030203, the Board directed the Office of Clean Energy ("OCE" or "Staff") to initiate a third comprehensive EE and RE resource analysis proceeding and to schedule public hearings on program funding and funding allocations for the years 2009 through 2012. By Order dated September 30, 2008 (the "CRA III Order"), Docket No. EO07030203, the Board concluded this proceeding and set funding levels of $245 million for 2009, $269 million for 2010, $319.5 million for 2011, and $379.25 million for 2012. By Order dated December 20, 2011, Docket Nos. EO07030203 and EO11100631V, the Board approved 2012 programs and budgets for the NJCEP ("2012 Budget Order") as well as the compliance filings of Honeywell International, Inc. ("Honeywell"), TRC, Inc. ("TRC"), the OCE, and the electric and gas utilities (collectively referred to as "the Utilities"). The compliance filings included program descriptions and detailed budgets for each program.

PROPOSED CHANGES TO 2012 PROGRAMS

Honeywell and TRC are proposing a number of corrections and changes to the programs to clarify the previously approved compliance filings, to reflect the forthcoming transition to a new administrative structure, and to reflect changed market conditions. No changes to the previously approved budgets are proposed at this time.

The following summarizes the changes to the programs proposed by Honeywell and TRC:

Honeywell

Residential New Construction ("RNC") Climate Choice Homes description: Change the reference that the Climate Choice Homes tier seeks homes that perform 50% better than the 2006 version of International Energy Conservation Code ("IECC") to 50% better than the 2009 version of the IECC. There was a typographical error in the Climate Choice Homes Tier 3 program requirements description where the 2006 version of IECC was incorrectly listed as the code on which the program was based.

2. RNC Program: Re-insert the following bullet in the program requirements section: "Install ENERGY STAR qualified HVAC equipment (or highest available alternative)". This was unintentionally deleted in the initial filing and is not a change from the program as approved in previous years.

3. RNC Program: Clarify RNC multifamily eligibility by more clearly referencing the EPA ENERGY STAR Multifamily New Construction Program Decision Tree.

4. Insert a Revised Energy Savings Summary by Program and Category - Appendix C: The revised Appendix C corrects the unit of measure and calculation errors for estimated gas savings in the Energy Savings Table that was submitted with the 2012 filing. The errors concerned the conversion of dekatherms to therms in certain calculations and the mislabeling of lifetime savings as dekatherms instead of as therms.

TRC

The following bullets identify proposed modifications to the incentive tables included in TRC's compliance filing:

- Technology Classification "Kitchen Hoods" was mislabeled. The correct classification is "Boiler VFD" (variable frequency drive). Proposed 2012 incentives remains unchanged.
- The following incentives were identified as eligible measures in the 2012 C&I Program and Budget Filing, were vetted through EE Committee meetings and were included in the incentive tables in the draft copy of TRC's compliance filing submitted to Board Staff on October 4, 2011. However, these incentives were inadvertently left out of the incentive table in the final copy of TRC's 2012 compliance filing:

    - Kitchen Hood VFDs – New Hoods: Prescriptive incentive based on cumulative motor HP controlled:

<5 hp	$250/hp
5 to <10 hp	$200/hp
10 to <15 hp	$150/hp
15 to <20 hp	$125/hp
20 to <25 hp	$105/hp
25 to <30 hp	$90/hp
30 to ≤50 hp	$55/hp

    - Kitchen Hood VFDs – Existing Hoods/Retrofit: Prescriptive incentive based on cumulative motor HP controlled:

<5 hp	$300/hp
5 to <10 hp	$200/hp
10 to <15 hp	$160/hp
15 to <20 hp	$125/hp
20 to <25 hp	$95/hp
25 to <30 hp	$80/hp
30 to ≤50 hp	$55/hp

    - Boiler Economizing Controls:

      $1,200 - $2,700 depending on boiler input capacity size

- Infrared heating – low intensity infrared heater with reflectors: Clarify that incentives are available for "gas infrared heating". Also, incentive amounts were inadvertently reversed in the original filing and will be corrected as follows:

  ≤100,000 btu/hr incentive: $500 per unit
  > 100,000 btu/hr incentive: $300 per unit

2. CHP: The existing small CHP/Fuel Cell program offers incentives to systems with no cap on the size of the system. On April 25, 2012 the Economic Development Authority ("EDA") released a solicitation for large CHP/Fuel Cell systems greater than 1 MW. In order to better align its small CHP/Fuel Cell program with EDA's new large CHP/Fuel Cell program, TRC is proposing to modify the small CHP/Fuel Cell program to limit eligibility to CHP/Fuel Cell systems less than or equal to 1 MW. This program change would commence 60 days from the date of the Board Order approving the change.

3. Schools: At Staff's request, TRC is proposing to implement a T-12 replacement program in schools with a proposed budget of $6 million. This offering is intended to jump start the Energy Savings Improvement Program ("ESIP") process by allowing savings generated from the equipment replaced to be included in an ESIP project. However, participation in an ESIP is not required to qualify for T-12 replacement funding.

   This offering is for complete fixture replacements only. This would not be a separate program, but would be incorporated into the Direct Install, Pay for Performance and C&I Retrofit programs. The intent is to develop an incentive that would generally be considered enough to cover up to 100% of the cost of the fixture replacement (material, labor, permits, proper disposal, etc.) At the time the proposal was circulated initially for comment TRC estimated that the incentive levels would range from $100 to $300 per fixture (excluding LED fixtures) and would vary depending on fixture type. TRC subsequently conducted market research to determine incentive levels. This included researching RS Means data, obtaining quotes from the pool of Direct Install contractors and soliciting feedback from other market participants who are familiar with the energy efficiency lighting market and lighting fixture replacements. Upon finalization of these details the proposed incentives were circulated again for comment on May 4, 2012. The revised incentive range is from $171-$478 per fixture, with the vast majority falling under $300.

   If approved, TRC will notify the Direct Install contractors of this special incentive offering. The Energy Assessment Tool will be modified to allow for revised incentive pricing for T-12 fixture replacements. TRC will also notify the Pay for Performance Partners so that the appropriate incentives will be calculated in the Energy Reduction Plans. This offering would represent a new Smart Start prescriptive incentive. Existing program rules would apply to any new incentives for T-12 fixtures. Incentives would be offered on a first-come, first-served basis while funds are available. All projects would require 100% pre inspection.

4. Direct Install – This program is available to customers whose peak demand did not exceed 150 kW in any of the preceding twelve months. The Market Manager currently has the discretion to approve applications that exceed the maximum monthly peak demand threshold of 150 kW by no more than 10%. There may be circumstances where a project exceeds 165 kW but may still be an excellent candidate for the Direct Install program. Therefore, TRC recommends that in these instances, customers be allowed to appeal to TRC to grant an exception. TRC will review the request for an exception and make a recommendation to AEG and OCE Staff for final approval.

Exceptions may be granted based on the facts and circumstances specific to each application. Considerations may include, but are not limited to, the frequency and volume of spikes in peak demand. Staff recommends that the exceptions be limited to projects with a peak demand of less than 180 kW.

5. TRC had proposed several new programs and changes to existing programs for 2012 that were approved by the Board in its December 20, 2011 Order. The new programs and several of the program changes approved by the Board required changes to the Market Manager contracts prior to implementation. However, given the anticipated change in program administration, contract modification and program implementation was deferred until the new program administrator is selected.

   The following summarizes the program changes effected by this decision and the proposed changes to TRC's compliance filing:

   - Multifamily Financing Program: section eliminated
   - Retro-commissioning Program: section eliminated
   - Local Government Energy Audit: remove references to rebidding to solicit qualified contractors and changes to pricing structure
     Large Energy User's Pilot: remove language related to TRC conducting a program evaluation
   - Direct Install: remove language related to rebidding Participating Contractor services and TRC performing audits.

Both TRC and Honeywell: Marketing Plans

The Board approved a 2012 marketing budget of $1,651,384 for Honeywell and $1,575,000 for TRC and a marketing plan which was included in their respective compliance filings. The increases in the marketing budgets required a contract modification to increase the associated fees charged by Honeywell and TRC. However, as discussed above, changes requiring contract modifications will be deferred at this time. Therefore, Honeywell and TRC submitted updated marketing plans in their respective revised compliance filings that reflect the fees in their existing contracts which are $1,309,984 for Honeywell and $1,075,000 for TRC. New tactical marketing plans have been developed in line with the 2011 budget levels to support the 2012 approved programs.

SUMMARY OF COMMENTS

Written comments were received from: Mr. Jeffrey Burger and the Division of Rate Counsel. The following summarizes the comments received:

Comment: Mr. Burger stated that the ESIP program should not be limited to Direct Install contractors and that it makes more sense for Pay-for-Performance contractors with certain modifications. Mr. Burger stated that it does not make sense to create a new fixture replacement strategy in schools without having a specifying engineer or architect first review the proposed layout and that pre- and post- foot-candle levels be monitored. He also suggested that emergency lighting and egress lighting be included in the program.

Response: Mr. Burger's comments reflect a misunderstanding of the proposed program. Specifically, the proposed T-12 replacement program is not limited to the Direct Install program as suggested by Mr. Burger but instead would be available to customers participating in either the Direct Install, Pay-for-Performance, or SmartStart rebate programs. Any changes would be subject to existing building codes regarding before and after lighting levels and the schools can choose to work with engineers or architects as they deem appropriate.

Rate Counsel submitted a number of comments as follows:

Comment: Rate Counsel had no objections to the four changes proposed by Honeywell. Rate Counsel stated that the proposed revisions to Honeywell's gas savings estimates should be circulated with the corrections noted.

Response: The proposed revisions to Honeywell's gas savings estimates were provided to Rate Counsel.

Comment: Rate Counsel did not object to the kitchen hood VFD incentives. Rate Counsel requested that for all programs going forward that the program manager provide proposed incentives as a percentage of the incremental costs.

Response: Staff typically requests program managers to provide information related to the proposed incentive as a percentage of incremental cost. Staff will share this information with Rate Counsel in the future.

Comment: Rate Counsel supported limiting CHP projects that participate in the small CHP program to units less than 1 MW. Rate Counsel did not object to the proposal to defer implementation of certain programs until the new program administrator is selected. Rate Counsel suggested that additional detail be provided regarding the proposed school T-12 replacement program. Rate Counsel reiterated a position it has taken in the past which is that the total incentives provided for energy efficiency projects should be less than 100%

Response: Regarding the proposed school T-12 replacement program, TRC provided an estimated range of incentives of between $100 and $300 per fixture and indicated that the incentives may vary between the three programs under which incentives will be provided. While Staff typically concurs with Rate Counsel that incentives should be less than 100% of the project cost, in this case several schools continue to utilize old, inefficient lighting systems that have not been replaced in over 30 years. An additional incentive is clearly required to get the schools motivated to remove these antiquated, inefficient lighting systems.

TRC developed the specific details related to the proposed school T-12 replacement program requested by Rate Counsel subsequent to the circulation of the original request for comments issued by the OCE. The specific changes and proposed rebate levels are incorporated into the revised compliance filing submitted by TRC and was circulated again for comment to Rate Counsel and the listserve on or about May 4, 2012.

Comment: The proposed increase in the budget cap for the Direct Install – Local Government Entities program should only go forward to the extent that eligibility for the backstop funding is limited to entities that contribute to the SBC. Such language should be included in TRC's filing.

Response: The Board has previously limited the use of Direct Install – Local Government Entities program funds to customers that contribute to the SBC which will be continued should the Board approve this proposal. TRC's revised compliance filing was modified to include this clarification.

Comment: Rate Counsel did not object to changing marketing plans but asked that any revised marketing plans be provided for review with an opportunity for interested parties to file comments.

Response: The proposed marketing plans included in Honeywell and TRC's revised compliance filings were provided to Rate Counsel on or about April 9, 2012.

As discussed above, additional details regarding the proposed school T-12 replacement program were circulated for comment on or about May 4, 2012. The following summarizes the additional comments received:

Comment: Smart E2 Solutions asked why LED tubes were excluded. The comments identified several potential benefits associated with LED lighting. Smart E2 Solutions indicated that its products can replace or retrofit existing fluorescent tubes and fixtures with no need to change the fixtures.

Response: The proposed school T-12 replacement program includes incentives that cover the cost of removal and disposal of the old T-12 fixtures. Smart E2 Solutions proposed solution does not include the removal of the old fixtures which is an important component of the proposed program. Further, TRC has indicated that is not aware of any LED tube lamps that currently meet program requirements.

Comment: American Efficient Lighting ("AEL") asked why the program would want to replace fixtures that are not rusted, deteriorated or broken and throw away all of that metal. AEL stated that certain lighting systems can be retrofitted instead of being replaced. AEL asked if there are any new regulations regarding prevailing wage that would be applicable to ballast changing.

Response: The proposed school T-12 replacement program is for complete fixture replacement to permanently remove all existing T-12 equipment from NJ K-12 schools. In addition to providing efficient lighting, old fixtures must be completely removed and disposed of appropriately under this initiative. This eliminates the opportunity for existing ballasts or equipment being abandoned and/or left in place. If customers wish to pursue the retrofit route, they can participate in the existing SmartStart equipment incentive offering. The program recognizes that reduced wattage T8 systems are a viable new fixture solution. Questions regarding prevailing wage requirements should be directed to the NJ Department of Labor and Workforce Development. Staff does not anticipate proposing any regulatory or statutory amendments to N.J.S.A. 48:2-29.47 at this time.

Comment: Nexant, Inc., asked a number of questions regarding the proposed school T-12 replacement program as follows: 1) Why is it proposed that "TRC may conduct 100% pre and post inspections of all projects?"; 2) Nexant suggests the following be added to the first bullet on page 1 of the letter for reference clarity, "Incentive amounts to be paid under the 2012

Schools Lighting Initiative are listed in the Attachment and are based on site-specific fixture and lamp types and installation heights."; 3) Are all existing fixture types listed in the Attachment anticipated?"; and 4) What is the basis for the incentive amounts listed and what steps did TRC take to develop the amounts?

Response: TRC has proposed 100% inspections of all projects to confirm fixture counts, fixture types, fixture heights, etc. and to verify projects meet the program requirements. The language proposed by Nexant is unnecessary since the proposal is sufficiently clear regarding the applicability of the incentives. The measures and proposed incentives on the list are intended to identify the most common fixture types anticipated to be found in K-12 schools in New Jersey. The proposed incentives were developed based on quotes from lighting contractors, RS Means data, Prevailing Wage data, Direct Install Program data, and other sources.

Comment: Rate Counsel provided comments in response to the March 23rd request for comments which are summarized above. Rate Counsel provided additional comments in response to the May 4th request for comments which are summarized as follows:

Regarding the school T- 12 replacement program proposal, Rate Counsel reiterated its position that the OCE or TRC 1) revise the proposal to clearly state the market barriers facing K- 12 public and private schools, 2) reduce the incentive to cover less than 100% of the cost of the T-12 replacements, or else clearly demonstrate why providing 100% of the cost of fixture replacement is needed, 3) demonstrate the cost effectiveness of the proposed program, 4) consider establishing a time frame for this incentive, and 5) encourage participants to participate in the Local Government Energy Audit and/or an ESIP if they are seeking T-12 replacements through the C&I Retrofit program for prescriptive measures. Rate Counsel recommends that the Board not approve the T-12 replacement program without, at a minimum, a demonstration of need or a demonstration of cost effectiveness. Regarding the proposal to authorize payments totaling $13,490 for NASEO membership fees, Rate Counsel has no objections.

Response: Former BPU President Lee Solomon received a letter in August of 2011 from the US Environmental Protection Agency ("EPA") soliciting support for its efforts to remove lighting fixtures from schools that were built before 1979. Because of the extreme difficulty of developing a program that just focused on pre-1979 lighting fixtures, it was determined that focusing on T-12 fixtures would be more cost effective and easier to determine in the field.

Based on discussions with the EPA, the OCE agreed to explore options for program changes that would strongly encourage the removal of primarily T-12 fixtures. In addition to providing energy savings, removal of T-12 fixtures in schools will result in other environment and health benefits.

Incentives for the replacement of T-12 fixtures have been available through various programs in New Jersey for over 15 years in several NJBPU programs, USDOE Green Lights programs and Department of Education funded school construction programs. In addition it was preliminarily determined that the universe of this program would be small and may be smaller district schools. However, the Department of Education does not have detailed records on the size of this issue. Staff concurs that in most cases incentives should be set at less than 100% of the incremental cost. However, in this case because of the above issues additional incentives are clearly required to encourage schools to remove these old, inefficient fixtures that have been in place since at least 1979.

As a general principle the Board aims to provide incentives for measures that are shown to be cost effective. However, in this case the program is being proposed to support an EPA initiative that will result in non-energy health and environmental benefits which are difficult to quantify.

Staff concurs with Rate Counsel that the program should be available for a limited duration to encourage schools to take advantage of the significant incentives being offered and that the program should encourage participation in the Local Government Energy Audit and/or an ESIP if they are seeking T-12 replacements through the C&I Retrofit program. Staff will coordinate with Rate Counsel, TRC and others to develop a proposed timeframe for this offering and to develop specific details regarding how to encourage participation in ESIP and/or the Local Government Energy Audit program.

STAFF RECOMMENDATIONS

The OCE has reviewed the modifications to the 2012 NJCEP proposed by Honeywell and TRC. Several of the changes are proposed to reflect the forthcoming transition to a new administrative structure and the decision to withhold consideration of the contract modifications needed to implement new programs and program components. These changes impact the revised marketing plans and the proposed changes to the Multifamily Financing program, the Retro-commissioning program, the Local Government Energy Audit program, the Large Energy User's Pilot and the Direct Install program. The effect of the proposed changes to these programs is that TRC will not implement the new Multifamily Financing or Retro-commissioning programs at this time and the other effected programs will continue in their current form. Changes to the programs proposed for 2012 will be made after the programs transition to the new administrative structure.

Several of the proposed changes are simple clarifications or corrections of typographical errors in the initial filings. These changes include all of the changes proposed by Honeywell as well as the changes to the incentive levels proposed by TRC in the bullets above. The changes to the CHP/Fuel Cell program are needed to align the small CHP/Fuel Cell program managed by TRC with the large CHP/Fuel Cell program managed by EDA.

As noted above, TRC developed the specific details related to the proposed school T-12 replacement program subsequent to the circulation of the initial request for comments issued by the OCE. The details are incorporated into the revised compliance filing submitted by TRC. The proposed school T-12 replacement program was designed to allow schools to utilize either the Pay-for-Performance, Direct Install or C&I Retrofit program to access incentives that encourage the replacement of antiquated T-12 lighting fixtures. The incentives were designed to pay 100% of the costs associated with replacing these fixtures while protecting customers from price gouging by capping the incentive at a level that reflects a reasonable cost for such fixture replacements. This program component will result in environmental and health benefits in addition to the energy savings benefits that will result from removal of the fixtures.

By Order dated March 12, 2012, Docket Nos. EO08100875, EO08090840 and EO09020097, the Board approved certain changes to Electric Distribution Company ("EDC") SREC Purchase and Sale Agreements ("PSAs") in the SREC-based finance programs of Rockland Electric Company, Atlantic City Electric Company and Jersey Central Power and Light Company. Specifically, the Board approved a Stipulation that allows the EDCs to extend PSAs if certain conditions are met. Honeywell has revised its compliance filing to be consistent with this Board Order so that the expiration dates related to the SREC Registration Program (SRP) align with the expiration dates, or extended expiration dates, in the PSAs.

Honeywell further seeks to clarify with the compliance filing changes that eligibility for the EDC SREC-based Finance Incentive offered in 2011 is extended automatically with a PSA extension granted by an EDC. If the SREC Registration Program requirements are not met by the expiration date of the original PSA or the extended PSA expiration date granted by an EDC, then the ESFI incentive eligibility will terminate.

The National Association of State Energy Offices ("NASEO") is a not-for-profit organization that coordinates efforts amongst State Energy Offices. OCE Staff has continued to participate in NASEO in 2010, 2011 and 2012. However, the membership fees for their FY2010 and FY2011 were inadvertently not paid. Therefore, Staff recommends that the Board authorize two payments totaling $13,490 to NASEO for FY2010 and FY2011 membership fees. The Board has already approved funding for NASEO membership in the NJCEP budgets for 2012 to cover NASEO's FY12 membership fee.

Staff has reviewed the changes to the programs proposed by Honeywell and TRC. Staff discussed these changes with participants at the EE and RE Committee meetings and has reviewed all of the comments submitted. The OCE believes that the proposed changes are needed to reflect the transition to a new administrative structure, will clarify the compliance filings, and will result in additional benefits to customers. Therefore, Staff recommends approval of the proposed changes to the 2012 programs set out in the revised 2012 NJCEP compliance filings submitted by Honeywell and TRC.

DISCUSSION AND FINDINGS

The OCE coordinated with the Market Managers, the NJCEP Program Coordinator and other stakeholders to develop proposed modifications to the 2012 NJCEP programs. On March 23, 2012 the OCE circulated proposed changes to the programs for public comment. Written comments were due by April 12, 2012 and the proposed changes were discussed at the April 18, 2012 meeting of the EE Committee. Additional subsequent proposed changes and updates resulted in a second round of public comments, which were due on May 10, 2012. Accordingly, the Board **FINDS** that the process utilized in developing the revised 2012 programs was appropriate and provided stakeholders and interested members of the public an appropriate opportunity to comment.

Based on a review of Staff's recommendations and the comments submitted regarding this matter, the Board **HEREBY FINDS** that the program changes set out above are reasonable. Therefore, the Board **HEREBY APPROVES** the 2012 program changes recommended by Staff. The Board **FURTHER FINDS** that the program changes discussed above are incorporated into compliance filings submitted to the Board for approval. Therefore, the Board **HEREBY APPROVES** the revised 2012 compliance filings filed by Honeywell dated May 3, 2012, and by TRC dated May 11, 2012. The Board **HEREBY AUTHORIZES** the program managers to implement the program changes set out in the filings as soon as practicable and upon proper notice. The Board **HEREBY AUTHORIZES** the payment of $13,490 to NASEO for membership fees for the years 2010 and 2011.

DATED: 5/23/12

BOARD OF PUBLIC UTILITIES
BY:

Robert M Hanna
ROBERT M. HANNA
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JEANNE M. FOX
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JOSEPH L. FIORDALISO
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NICHOLAS ASSELTA
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ATTEST:

Kristi Izzo
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

Kristi Izzo

IN THE MATTER OF COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCE ANALYSIS FOR THE 2009 - 2012 CLEAN ENERGY PROGRAM: 2012 PROGRAMS AND BUDGETS: REVISED 2012 PROGRAMS
DOCKET NOS. EO07030203 & EO1110631V

SERVICE LIST

Mr. Joe Gennello
Honeywell Utility Solutions
5 East Stow Road, Suite E
Marlton, NJ 08053

Ms. Diane M. Zukas
TRC Energy Solutions
900 Route 9 North, Suite 404
Woodbridge, NJ 07095

Mr. Michael Ambrosio
Applied Energy Group
317 George Street, Suite 305
New Brunswick, NJ 08901

Mr. Bruce Grossman
Program Manager, Residential Energy Efficiency
South Jersey Gas Company
1 South Jersey Plaza
Folsom, NJ 08037

Mr. Samuel Valora
Program Manager, C&I Energy Efficiency
South Jersey Gas Company
1 South Jersey Plaza
Folsom, NJ 08037

Mr. Ken Maloney
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

Mr. Alex Stern
Assistant General Reg. Counsel
Public Service Electric and Gas Company
T5, PO Box 570
Newark, NJ 07101

Mr. Anthony Pugliese
Elizabethtown Gas
148 Edison Road
Stewartsville, NJ 08886

Ms. Mary Patricia Keefe
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

Mr. Thomas Kaufmann
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

Ms. Holly Thompson
Orange & Rockland Utilities, Inc.
Customer Energy Services
390 West Route 59
Spring Valley, NY 10977

Ms. Elaine Bryant
Manager, Market Strategy & Planning
Public Service Electric and Gas Company
T8C, PO Box 570
Newark, NJ 07101

Ms. Debbie Franco
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922

Mr. Lawrence Sweeney
Rates and Regulatory Affairs
Jersey Central Power and Light Company
300 Madison Avenue, PO Box 1911
Morristown, NJ 07962-1911

Mr. Scott Carter
AGL Resources
Ten Peachtree Place
Atlanta, GA 30309

Mr. Wayne Barndt
Manager Regulatory Strategy & Policy
Pepco Holdings
New Castle Regional Office
Mailstop 79NC59, PO Box 9239
Newark, DE 19714

Ms. Tracey Thayer
Director, Regulatory Affairs Counsel
New Jersey Natural Gas Company
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719

Ms. Anne Marie Peracchio
Director, Conservation & Clean Energy Policy
New Jersey Natural Gas Company
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719

Ms. Marisa Slaten, Esq.
Deputy Attorney General
Division of Law
Department of Law and Public Safety
124 Halsey Street
Newark, NJ 07101

Ms. Rachel Boylan
Legal Specialist
State of NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Ms. Allison E. Mitchell
Administrative Analyst, Office of Clean Energy
State of NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Mr. Timothy White
Manager Policy Coordination
Pepco Holdings
New Castle Regional Office
Mailstop 79NC59 , PO Box 9239
Newark, DE 19714

Mr. Scott Markwood
Administrator
Orange & Rockland Utilities, Inc.
Customer Energy Services
390 West Route 59
Spring Valley, NY 10977

Mr. Michael Winka
Director, Office of Clean Energy
State of NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Ms. Mona Mosser
Bureau Chief, Office of Clean Energy
State of NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Mr. Benjamin S. Hunter
Renewable Energy Program Admin., OCE
State of NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Mr. Steve Swetz
Director, Corporate Rates & Revenue Rqmts
Public Service Electric and Gas Company
T5, PO Box 570
Newark, NJ 07101