



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

**OFFICE OF CLEAN ENERGY
& DIVISION OF ENERGY**

IN THE MATTER OF ATLANTIC CITY ELECTRIC
COMPANY RENEWABLE ENERGY PORTFOLIO
STANDARD- AMENDMENTS TO THE MINIMUM FILING
REQUIREMENTS FOR ENERGY EFFICIENCY,
RENEWABLE ENERGY, AND CONSERVATION
PROGRAMS; AND FOR ELECTRIC DISTRIBUTION
COMPANY SUBMITTALS OF FILINGS IN
CONNECTION WITH SOLAR FINANCING

) ORDER ON RESULTS OF THE
) THIRD SOLICITATION
)
)
)
)
)
) DOCKET NO. EO08100875

IN THE MATTER OF THE VERIFIED PETITION OF
JERSEY CENTRAL POWER AND LIGHT COMPANY
CONCERNING A PROPOSAL AN SREC-BASED
FINANCING PROGRAM UNDER N.J.S.A 48:3-98.1

) ORDER ON RESULTS OF THE
) THIRD SOLICITATION
)
) DOCKET NO. EO08090840

IN THE MATTER OF THE VERIFIED PETITION OF
ROCKLAND ELECTRIC COMPANY CONCERNING A
PROPOSAL FOR AN SREC-BASED FINANCING
PROGRAM UNDER N.J.S.A 48:3-98.1

) ORDER ON RESULTS OF THE
) THIRD SOLICITATION
)
) DOCKET NO. EO09020097

(SERVICE LIST ATTACHED)

BY THE BOARD:

BACKGROUND AND PROCEDURAL HISTORY

By Order¹ dated August 7, 2008 ("August Order"), the New Jersey Board of Public Utilities ("Board") directed the Jersey Central Power and Light Company ("JCP&L") and the Atlantic City Electric Company ("ACE") to file by September 30, 2008, a solar financing program based on Solar Renewable Energy Credits ("SRECs") and including certain mandatory design and filing

¹ I/M/O the Renewable Energy Portfolio Standard: Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs, and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, Docket No. EO06100744

requirements. In addition, the August Order directed Rockland Electric Company ("RECO") to file with the Board an SREC-based financing program by January 31, 2009.

On August 22, 2008, RECO submitted a motion for reconsideration of the August Order, arguing that its proposed residential solar loan program, set forth in BPU Docket No. EO080907031, would be more effective in developing market support of solar projects in its service territory. By Order dated December 10, 2008, I/M/O Rockland Electric Company's Motion for Reconsideration or, in the Alternative, Clarification in Part of the Board's August 7, 2008 Order, Docket No. EO061 00744 ("December Order"), the Board rejected the Company's request to provide only a residential solar loan program, but determined that RECO was not prohibited from pursuing a solar loan program in addition to an SREC-based financing program. The December Order further provided that RECO could proceed with its own SREC-based financing program or it could opt to participate in the programs submitted to the Board by ACE or JCP&L.

On September 30, 2008, JCP&L filed its solar financing program, I/M/O the Verified Petition of Jersey Central Power & Light Company Concerning a Proposal for an SREC-Based Financing Program under N.J.S.A. 48:3-98.1, Docket No. EO08090840. On October 1, 2008, ACE filed its solar financing program, I/M/O the Renewable Energy Portfolio Standard – Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, Docket No. EO08100875. On February 3, 2009, RECO filed its SREC-based financing program ("RECO Program"), In the Matter of the Verified Petition of Rockland Electric Company for Approval of a Residential Solar Loan Program Pursuant to N.J. S.A. 48:3-98.1, Docket No. EO08090903.

Over the course of settlement discussions held between February and March 2009, the ACE and JCP&L filings merged into one model program ("ACE-JCP&L Program") with similar positions on all issues including cost recovery mechanisms and incentives. The parties reached an agreement on all relevant details of the ACE-JCP&L Program and signed a stipulation on March 13, 2009 ("ACE-JCP&L Stipulation"). The Department of Public Advocate, Division of Rate Counsel ("Rate Counsel") signed the ACE-JCP&L Stipulation but reserved the right to contest three specific issues. By Order dated March 27, 2009 ("March Order"), the Board approved the ACE-JCP&L Stipulation and resolved the contested issues. On May 8, 2009, Rate Counsel filed a notice of appeal with the Superior Court of New Jersey, Appellate Division, regarding the additional recoveries portion of the contested issues. ACE, JCP&L, the Board, and Rate Counsel entered into a stipulation of settlement on additional recoveries ("Stipulation of Appeal") on July 29, 2009 in the interest of avoiding further litigation. By Order dated September 16, 2009 the Board modified its March Order to reflect the terms of the Stipulation of Appeal. Rate Counsel withdrew its appeal on September 23, 2009.

On June 29, 2009, JCP&L and ACE retained NERA Economic Consulting to serve as Solicitation Manager ("SM") and to implement the ACE-JCP&L Program. On July 27, 2009 the parties to the RECO filing executed a stipulation ("RECO Stipulation") on all the relevant details of the RECO Program but leaving open two issues for the Board. By Order in these dockets dated July 31, 2009 ("July Order"), the Board approved RECO's Stipulation and resolved the contested issues.

Bids for the first solicitation ("First Solicitation") under the ACE-JCP&L Program were submitted to the SM by August 25, 2009. On September 23, 2009 the SM sent the Board Staff ("Staff") a confidential report containing its final recommendations to the Board. On September 30, 2009, the Board issued an Order: (i) authorizing JCP&L to award SREC Purchase Sale Agreements

("PSAs") to seven projects for a total of 1,585.37 kW; (ii) ordering the second solicitation ("Second Solicitation") to be 12MW for JCP&L and 5MW for ACE; and (iii) ordering a third solicitation ("Third Solicitation") to be held on March 5, 2010 with at least 9.40527 MW for JCP&L and 5 MW for ACE. In addition, the Board committed to consider after the Second Solicitation whether capacity not awarded in the Second Solicitation should be included in the Third Solicitation.

Bids for the Second Solicitation round under the ACE-JCP&L Program and the RECO Program (jointly "Programs") were submitted to the SM on December 11, 2009. On January 14, 2010, the SM sent Staff a confidential report containing its final recommendations to the Board. On January 21, 2010, the Board issued an Order: (i) authorizing ACE to award SREC PSAs to ten projects for a total of 2,196.508 kW; JCP&L to award SREC PSAs to twenty seven projects for a total of 4,175.69 kW; and RECO to award SREC PSAs to two projects for a total of 149.60 kW; and (ii) ordering the Third Solicitation to be 7,803.49 kW for ACE, 17,238.94 kW for JCP&L and 2,117.40 kW for RECO.

Bids for the Third Solicitation were submitted on March 5, 2010. Sixty-three bids were received totaling 9,940.548 kW. The SM held a meeting with ACE, JCP&L and RECO (jointly "EDCs"), Staff and Rate Counsel on March 15, 2010, to review and discuss the preliminary results of the solicitation and possible recommendations to the Board. On April 9, 2010 the SM submitted its final recommendations to the Board.

DISCUSSIONS AND FINDINGS

The Board has carefully reviewed the recommendations of the SM and **FINDS** that the overall process was effectively competitive. However, the Board **FINDS** that in order to protect the bidder's expectations of fair dealing and fair process, two of the projects that the SM recommends for awards should not receive an award in this instance. The bidder of these two projects failed to adhere to two of the requirements established in the EDC's Request for Proposals ("RFP") the ACE-JCP&L Stipulation, the RECO Stipulation, the March Order and/or the July Order ("Program Rules"). In particular, the bidder (i) failed to sign the SREC PSA within 5 days of the EDC's notice announcing the Board's award to the bidder's projects in the Second Solicitation; and (ii) resubmitted the same projects in the Third Solicitation at a higher bid price, thus breaching the requirement to keep bid prices open for a period of 120 days before submitting an additional price offer.

In order to ensure compliance with these requirements, and to ensure a fair process for all involved, the Board **ORDERS** the EDCs to include in the RFP an additional provision. The provision will preclude a project that receives an award in one solicitation to compete in a future solicitation at a higher price absent a "clear indication of a change in circumstances". The Board **DIRECTS** Staff to work with the SM, Rate Counsel and the EDCs in defining the criteria to be used in determining what constitutes a clear indication of a change in circumstances.

Consequently, the Board **AUTHORIZES** the EDCs to enter into SREC PSAs for fifty-seven projects totaling 9,332.978 kW. The Board **AGREES** with the SM's recommendation to not award four projects totaling 167.570 kW because pricing was not competitive. In addition, the Board **REJECTS** two projects totaling 440 kW because the bidder failed to adhere to the Program Rules. This bidder may either sign an SREC PSA with the price terms awarded by the Board for those projects in the Second Solicitation, or re-submit the two projects in a future solicitation round.

The average NPV for the awards is \$2,999.51, corresponding to an average SREC price of \$424.18/SREC for a ten-year contract. The lowest NPV for the awards is \$2,473.10, corresponding to an average SREC price of \$349.74/SREC for a ten-year contract. While overall participation is increasing in each solicitation, the Board **FINDS** that the success of the Programs is not uniform across all the EDC's territories. The Board **THEREFORE DIRECTS** the EDCs to work with the SM in examining the reasons behind the inconsistent participation across territories and to report back to the Board at the fifth solicitation round.

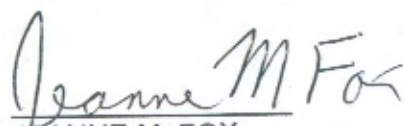
Finally, the Board **HEREBY ORDERS** that in Reporting Year 2010/2011 the following capacities will be solicited under the Programs:

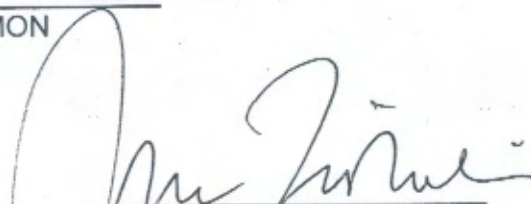
EDC	Fourth Solicitation June 2010 (kW)	Fifth Solicitation September 2010 (kW)	Total (kW)
JCP&L	9,297.411	9,297.411	18,594.822
ACE	6,844.416	5,844.416	12,688.832
RECO	1,460.700	1,459.700	2,920.400

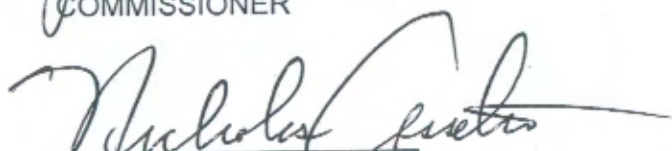
DATED: 4/28/10

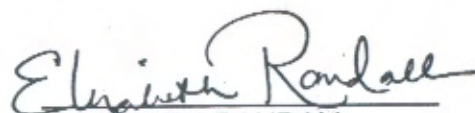
BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT

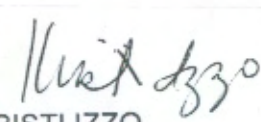

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KRISTI IZZO
SECRETARY

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

