Agenda Date: 6/15/11
Agenda Item: 8C

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCE ANALYSIS FOR THE YEARS 2009-2012: REVISED 2011 PROGRAMS AND BUDGETS)	ORDER DOCKET NOS. EO07030203 and EO10110865
IN THE MATTER OF THE STATE ENERGY PROGRAM-FOR PROGRAM YEAR 7/1/10-6/30/11)	DOCKET NO. EO10050320

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Marisa Slaten, DAG, Division of Law, Department of Law and Public Safety, 124 Halsey Street, Newark, New Jersey, 07101, on behalf of the Board of Public Utilities

BY THE BOARD:

This Order memorializes action taken by the Board of Public Utilities ("Board") at its June 15, 2011 public meeting, where the Board considered proposed modifications to 2011 programs and budgets for New Jersey's Clean Energy Program and utilization of State Energy Plan funds.

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").

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 22, 2010, Docket Nos. EO07030203 and EO10110865, the Board approved 2011 programs and budgets for the NJCEP ("2011 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.

By Orders dates April 13, 2011 and June 2, 2011 the Board approved revisions to the 2011 programs and budgets. In this order the Board will consider additional changes to the 2011 NJCEP programs and budgets.

PROPOSED CHANGES TO PROGRAMS AND BUDGETS

Honeywell has proposed changes to the Home Performance with Energy Star program, the Customer On-Site Renewable Energy (CORE) program, and the Renewable Energy Incentive Program (REIP) as well as changes to the detailed budgets for the Residential HVAC and Energy Star Products programs. TRC has proposed the addition of a Large Energy Users Pilot program. The following summarizes the proposed changes:

Home Performance with Energy Star

In early April the OCE and Honeywell were approached by representatives of the Home Performance with Energy Star (HPwES) program contractor community to discuss low participation rates in the program and options for increasing participation levels. Based on those discussions Honeywell developed a proposal for a limited-time seasonal promotion which it believes is the most efficient way to boost program participation. A limited time offer will create urgency in the marketplace during the HVAC busy season and would serve to help steer HVAC customers into the HPwES program. It will also help entice more contractors back into the program, creating and/or supporting jobs in the HPwES marketplace.

The following summarizes the specific changes to the program proposed by Honeywell:

1 At the Tier 2 level, customers would be allowed to include domestic hot water heater replacements from the Eligible Measures List in their projects and scope of work. Resulting savings would be included in the Total Energy Savings (TES) calculations and costs would be included in the project total scope of work.

2. A limited-time offer or "Summer Promotion" would be offered and structured as a discount to reduce the homeowner's total cost for a HPwES project. The Summer 2011 Promotion Period would become effective upon approval by the Board and would continue through August 31, 2011. Projects with enrollments during this period would be eligible for Summer Promotion Discounts described below. Active projects enrolled in the Program since January 4, 2011, but not yet submitted as completed, would also be eligible.

Discounts offered during the Summer Promotion would scale according to the TES Tiers as follows:

- Tier 2, TES = 10-19.99%: The current incentive is a $1,000 cash rebate, not to exceed 50% of the total work cost. Customers who enroll during the Summer 2011 Promotion Period would be eligible for a discount of $500.
  Tier 3 Level 1, TES = 20-24.99%: The current incentive is a $3,000 cash rebate, not to exceed 50% of the total work cost. Customers who enroll during the Summer 2011 Promotion Period would be eligible for a discount of $750.
  Tier 3 Level 2, TES greater than or equal to 25%: The current incentive is a $4,000 cash rebate, not to exceed 50% of the total work cost. Customers who enroll during the Summer 2011 Promotion Period would be eligible for a discount of $1000.

As discuss further below, Staff is proposing to use State Energy Program funds to pay the additional Summer promotion incentives set out above.

CORE and REIP

Honeywell is proposing a number of changes to the REIP and CORE programs as follows:

Honeywell's 2011 program compliance filing, which was approved by the Board by Order dated December 22, 2010, defines the eligibility criteria for the EDC Solar Financing Incentive (ESFI). Two of the key objectives of the ESFI were to motivate the installer community to understand the EDC SREC-based Finance program (the program), to sell potential customers on the availability of the program, and to facilitate the transition away from rebates for residential and small non-residential solar projects. Based upon the robust participation in the program's recent solicitation and the fact that over 1,100 residential projects have participated in the SREC Registration Program (SRP) without the benefit of a rebate, the OCE has concluded that the need for incentives to participate in the program has dissipated and hence the eligibility requirements for ESFI should be modified.

Therefore, based on discussions with the OCE, Honeywell has proposed to modify the ESFI as follows: 1) an incentive of $.50/Watt will be available to all eligible SRP projects that are awarded a Board approved SREC Purchase and Sale Agreement with their EDC resulting from their participation in an EDC SREC solicitation; and 2) the eligibility period will be from January 1, 2011 through the solicitation which ends on June 10, 2011, rather than through December 31, 2011, as initially planned. The result of this change is that incentives will not be made available to projects that participate in the solicitations planned for September and December 2011.

In addition to the proposed change to the ESFI noted above, the OCE is proposing a modification to the Board's extension policy for CORE and REIP solar projects. The CORE program was closed to new applicants in 2008 and the REIP program was closed to new solar rebate applications in 2010. The Market Manager is currently authorized to grant first extensions for projects less than or equal to 10.0 kW and second extensions for projects greater than 10.0 kW if certain conditions are met. Additional extensions require the applicant to petition the Board for a waiver or an exception to the Board-approved extension policy.

Current economic conditions for solar projects are such that many new projects from all market segments have been financed and constructed without a rebate. Staff believes that the current state of the SREC market, in which SREC prices combined with federal tax credits and other incentives produce reasonable paybacks to projects without a rebate, results in a windfall for projects that received rebate approvals based on economic conditions and installation costs that existed several years ago when SREC prices were lower. In addition, there are other factors affecting project installations that have improved during the past two years such as the abundant supply of equipment, lower installed cost, and many more active installers to choose from.

Therefore, Staff is proposing modifications to the current extension policy for all solar projects. The proposed extension policy change would apply to a project based upon how many extensions the project has been granted as of the effective date of the Board Order approving the proposed changes as described below.

1. Projects that have not received an extension may be eligible for only one extension and must provide documentation to demonstrate the following items:

    a. Engineering and design work has been completed.
    b. Construction permits have been approved by the authority having jurisdiction (where applicable).
    c. Project materials including the panels, inverters and mounting system are on site.

Projects that meet all requirements for a 1st extension may be granted an extension from the original project expiration date as determined by the size of the project. Projects less than or equal to 10.0 kW will be eligible for a 4 month extension and projects greater than 10.0 kW will be eligible for a 6 month extension.

2. Projects with a system size greater than 10.0 kW that have already received a 1st extension may be eligible for one additional extension (a 2nd extension) and must provide documentation to demonstrate the following items:

    a. Engineering and design work has been completed.
    b. Construction permits have been approved by the authority having jurisdiction (where applicable).
    c. Project materials including the panels, inverters and mounting system are on site.
    d. The system must be substantially installed and awaiting final interconnection approval or in the startup and testing phase.

Projects that meet all 2nd extension requirements may be granted an extension for a period of 6 months from the current project expiration date. If the project is not completed within this 2nd extension period, no additional extensions will be granted by the Market Manager.

The Market Manager will consider extension requests in the two cases described above only if the requirements for an extension are satisfied, and where the delay was unavoidable and unforeseeable at the time of the rebate application. Approval of any extension will depend on the totality of circumstances, as demonstrated through documentation provided with the extension request. Progressive documentation of project issues to the Market Manager as they occur throughout the project will improve the case for a project extension. Projects that have been denied a rebate extension may be eligible to transfer their project to the SREC Registration Program in order to be eligible to generate NJ SRECs. All other requests for an extension must be approved by the Board and require proof of extenuating circumstances warranting consideration of the additional extension. Such extenuating circumstances must be thoroughly documented as part of the extension request.

Proposed Budget Modifications

Honeywell has also proposed a number of changes to its detailed budgets as follows:

Due to overwhelming market response to the 2010 *COOL* and *WARM* Advantage programs and the number of applications received for processing to date in 2011, an adjustment is proposed to the budget. The change would support processing an additional 28,000 applications, while not increasing the overall Residential HVAC Electric and Gas Program budget, and would entail moving $987,496.90 from the Rebates, Grants and other Direct Incentives budget category to the Rebate Processing, Inspections and other Quality Control budget category. Honeywell has indicated that sufficient funds remain in the Rebates, Grants and other Direct Incentives budget category to pay anticipated rebates. The proposed increase in the budget for processing rebates is in part based on the fact that the fees for processing a large number of applications were billed to the program by Honeywell in 2011 for rebates that were paid in 2010.

The response to the ENERGY STAR® Clothes Washer Appliance Rebate Program combined with the success of the ARRA State Energy Efficient Appliance Rebate Program (SEEARP) has resulted in an influx of rebate applications in excess of planned units. Therefore, an adjustment is proposed to the budget to support processing approximately 39,000 additional applications, while not changing the overall ENERGY STAR Products Program budget. This change would entail moving $240,537.96 from the Rebates, Grants and other Direct Incentives category to the Rebate Processing, Inspections and other Quality Control category. Honeywell has indicated that sufficient funds remain in the Rebates, Grants and other Direct Incentives budget category to pay anticipated rebates. The proposed increase in the budget for processing rebates is in part based on the fact that the fees for processing a large number of applications were billed to the program by Honeywell in 2011 for rebates that were paid in 2010 and that a portion of the rebates were paid with ARRA funds while the fees for rebate processing are charged to the NJCEP.

The following tables show the detailed budgets previously approved by the Board and the proposed budgets incorporating the changes discussed above:

Approved Residential Efficiency Budget

Program	Total	Administration, IT and Program Development	Sales & Marketing	Training	Rebates, Grants, and Other Direct Incentives	Rebate Processing, Inspections and Other Quality Control	Performance Incentives	Evaluation and Related Research
Residential HVAC - Electric & Gas	$19,786,157.98	$1,306,764.00		$354,001.80	$16,160,415.42	$1,832,734.36		$132,242.40
Residential New Construction	$19,943,969.50	$1,249,392.00			$16,497,157.80	$1,951,092.50		$246,327.20
ENERGY STAR Products	$16,006,633.80	$1,655,032.84			$13,686,881.26	$505,884.00		$158,835.70
Home Performance with Energy Star	$34,885,329.29	$1,044,421.08			$31,117,858.22	$2,723,049.99		
Marketing	$1,309,984.00		$1,309,984.00					
Sub Total Residential Programs	$91,932,074.57	$5,255,609.92	$1,309,984.00	$354,001.80	$77,462,312.70	$7,012,760.85		$537,405.30

Proposed June 2011 Residential Efficiency Budget

Program	Total	Administration, IT and Program Development	Sales & Marketing	Training	Rebates, Grants, and Other Direct Incentives	Rebate Processing, Inspections and Other Quality Control	Performance Incentives	Evaluation and Related Research
Residential HVAC - Electric & Gas	$19,786,157.98	$1,306,764.00		$354,001.80	$15,172,918.52	$2,820,231.26		$132,242.40
Residential New Construction	$19,943,969.50	$1,249,392.00			$16,497,157.80	$1,951,092.50		$246,327.20
ENERGY STAR Products	$16,006,633.80	$1,655,032.84			$13,446,343.30	$746,421.96		$158,835.70
Home Performance with Energy Star	$34,885,329.29	$1,044,421.08			$31,117,858.22	$2,723,049.99		
Marketing	$1,309,984.00		$1,309,984.00					
Sub Total Residential Programs	$91,932,074.57	$5,255,609.92	$1,309,984.00	$354,001.80	$76,234,277.84	$8,240,795.71		$537,405.30

Large Energy Users Pilot Program

By Order dated December 22, 2010 the Board approved 2011 programs and budgets. In this Order the Board directed the OCE to coordinate with the New Jersey Large Energy Users Coalition (NJLEUC), the public, and other interested parties to seek input regarding the development of a pilot program for the State's largest energy users to be presented for consideration by the Board at a later date. In its April 13, 2011, Order the Board approved a budget of $20 million for this pilot program.

As directed by the Board, Staff coordinated with the NJLEUC, the public, and other interested parties to develop a proposed pilot for the State's largest energy users. The following summarizes the key provisions of the proposed pilot program:

The purpose of the pilot program is to foster self-investment in energy efficiency and combined heat and power projects by providing financial support to large commercial and industrial utility customers in the State of New Jersey. Incentives will be awarded to customers that satisfy the program's eligibility and program requirements to invest in self-directed energy projects that are customized to meet the requirements of the customers' existing facilities, while advancing the State's energy efficiency, conservation, and greenhouse gas reduction goals.

An open enrollment period (45 days) will be established for entities to submit qualifications for participation. In keeping with the intent of the pilot and limited available funding, the pre-qualification period will serve to expedite the process for those entities meeting the eligibility requirements of the Program.

To qualify, eligible entities must have contributed through the Societal Benefits Charge a minimum of $300,000 into New Jersey's Clean Energy Program (NJCEP) fund in calendar year 2010 (aggregate of all buildings/sites)

Only facilities with an annual billed peak demand of 400 kW within the entity's portfolio will be considered for incentives

Qualifying entities will be ranked by the amount of contribution through the Societal Benefits Charge to the NJCEP fund in 2010 from eligible facilities (400 kW annual peak demand or greater). The top 25 entities will be approved to submit a Draft Energy Efficiency Plan (DEEP).

The maximum incentive per entity will be the lesser of:

$1 million

- 75% of total project(s) cost
- 90% of total NJCEP fund contribution in previous year (i.e. from all entity facilities)
- $0.33 per projected kWh saved; $3.75 per projected therm saved annually

The minimum incentive is $200,000. Projects with incentives below this threshold will be redirected to other NJCEP programs. NJLEUC program funds will be committed upon approval of the Final Energy Efficiency Plan (FEEP) by Program Manager and Board of Public Utilities as required. Incentives shall be paid upon project completion and verification that all program requirements are met. Submitted DEEPs, which are deemed complete, shall be reviewed on a first come, first serve basis until all incentive funds are committed. The proposed program description identifies the minimum filing requirements for the Draft and Final Energy Efficiency Plans and other terms and conditions of the pilot.

Process for Reviewing Proposed Changes

Each of the proposed changes to the programs and budgets noted above were presented and discussed at the April 12, 2011 and/or May 10, 2011 meetings of the EE and RE Committees. In addition, by email dated May 12, 2011 the OCE circulated the proposed changes concerning the HPwES program and proposed budget changes to the EE and RE list serves and requested comments by May 20, 2011. By email dated May 18, 2011 the OCE circulated the proposed Large Energy Users Pilot and changes to the REIP and CORE program to the EE and RE list serves and requested comments by May 27, 2011. The following summarizes the comments received and Staff's responses to the comments.

SUMMARY OF COMMENTS

Comments were received from: the Air Conditioning Contractors NJ (ACCANJ), Mr. Christopher McKenna, EfficiencyFirst, New Jersey Natural Gas Company (NJNG), IBEW, Shift to Green Energy, the NJ Solar Alliance, Willdan Energy Solutions, Rate Counsel, Bloom Energy, the New Jersey Large Energy Users Coalition, and joint comments of NJNG and Public Service Electric and Gas Company (PSE&G).

The following summarizes the comments and provides Staff's response to the comments:

Home Performance with Energy Star Program Changes

Comment: EfficiencyFirst stated it believes that the proposed changes to the Home Performance with Energy Star (HPwES) program represent a solid plan to help get the program back to the great success it had in 2009 and 2010. EfficiencyFirst noted that due to the budgetary issues that were encountered in 2010, the program lost a lot of the momentum it had established, and feels that the proposed changes will help re-establish that lost momentum. EfficiencyFirst thanked the parties for working closely with it to develop ideas to improve the program and noted that its contractors work in several other states and believes that the CEP stakeholder process should be a model of transparency to other states. Due to delays in bringing this matter before the Board, EfficiencyFirst requested that the proposed Summer promotion period be extended from August 31, 2011 to September 30, 2011.

NJNG strongly supported the proposal to allow the savings from domestic hot water heater replacements to be included in the energy savings calculations. NJNG also supported the proposed Summer promotion concept and the proposal to extend the term of the Summer promotion through September 30th. NJNG requested consideration of the concept of including the value of high-efficiency furnace or boiler replacement through the *Warm*Advantage program into the calculation of energy savings for the HPwES program.

ACCANJ supported the proposed Summer promotion stating that it feels the promotion will help re-energize participation in the program by both BPI accredited contractors and customers. ACCANJ also supported the proposal to extend the Summer promotion period through September 30th.

Response: Staff appreciates the support for the proposed Summer incentive provided by EfficiencyFirst, NJNG and ACCANJ. Staff commenced discussions regarding the proposed Summer promotion in early April and as originally designed was to commence in May. Since the earliest the Summer promotion can now commence is mid-June, Staff supports the proposal to extend the Summer promotion period through September 30, 2011. Staff has directed Honeywell to revise its proposal to incorporate this change. NJNG's request to consider inclusion of high efficiency furnace or boiler replacements into the calculation of energy savings for the HPwES program was considered but would create numerous administrative issues and was therefore not recommended at this time.

Comment: Rate Counsel did not object to the proposed HPwES Summer Promotion. However, Rate Counsel's support is conditioned upon implementing measures to ensure that the level of incentive does not exceed 100% of the total incremental cost of various measures qualified for the HPwES program. In addition to the conditions set forth above, the OCE or the Market Manager should be required to support their claim that a $500 discount is needed to boost the participation in Tier 2 programs, and why a lower incentive level is not sufficient to do so.

Response: One major barrier to HPwES Tier 2 participation occurs when an orphaned water heater, i.e. an atmospherically drafted water heater is left behind following replacement of an atmospherically drafted furnace with an energy efficient condensing model. As the existing chimney no longer serves to support proper draft this creates a health and safety issue that must be corrected in order to proceed with air sealing in Tier 2. The additional $500 incentive was designed to address orphaned water heaters and represents about 27% of the incremental cost of installing a power vented water heater to correct this situation.

Comment: Rate Counsel stated that the proposed Summer promotion could result in funding more than 100% of the incremental costs of energy efficiency measures, although the cap of 50% of project cost will prevent incentives from deviating too much from incremental levels. Rate Counsel noted that given sustained participation in Tier 3 it does not believe that additional incentives are needed for Tier 3 and that as an alternative, the Summer promotion could provide the same discount for both Tier 2 and 3 services, so that participation in Tier 3 is not discouraged.

Response: Comprehensive HPwES Tier 3 projects yielding 20% to 25%+ total energy savings average $13,000 to $15,000. The proposed new incentive structure would encourage participation while increasing the incentives about 5-6% of the average job cost. Enrollments YTD are at only about 70% of program goal and enrollments for the month of April achieved only 46% of the monthly goal. Discussions with the contractor community indicate that a more attractive offer would be required to bring back the some of the lost program momentum and encourage Tier 3 homeowner participation.

Comment: Rate Counsel stated that it appears contractors are reluctant to participate in the HPwES program, in part due to long payment processing and inspection periods. Rate Counsel asked the OCE to consider whether an increase in the contractor incentive, instead of an additional customer incentive, would do more to promote the program.

Response: Contractors indicated in discussions that most often an additional contractor incentive would be passed through to the homeowner, but would not create the additional excitement in the market place required to spur increased overall program activity and market demand.

Comment: Mr. McKenna stated that incentives should be able to be combined with NJNG's HPwES incentives and that energy audits should be of a much better quality. Mr. McKenna supported the HESP program and its methodology.

Response: Staff works closely with all of the utilities to coordinate program incentives. CEP incentives can be combined with incentives offered by NJNG. Staff is continuously looking for ways to improve the programs and will direct Honeywell to assess the potential use of HESP or other audit programs.

Comment: The IBEW Local Unions 94 and 1820 proposed that the following language be added to the program description: "It would also help to encourage participation by Public Utility Companies regulated by the Board of Public Utilities, and entice contractors back into the program, creating and/or supporting jobs in the HPwES marketplace." (Proposed additional language underlined)

Response: Staff declines to make the proposed revision because offering additional incentives to customers to participate in the HPwES program will not necessarily encourage participation by public utility companies. Staff recommends that any issues regarding utility programs be directed to specific proceedings before the Board wherein utility EE programs are considered.

Comment: Shift Into Green Energy stated its belief that the programs are missing an essential element, real-time consumption monitoring. It believes that to reach maximum efficiency and to carefully maintain it requires a constant view of consumption. Regarding saving energy, energy management is in the process of monitoring, controlling and conserving energy in a building or organization.

Response: Shift Into Green Energy's proposal is a recommendation for a significant new program. The Board has previously considered and approved 2011 programs and budgets. In this proceeding the Board is considering changes to the program previously approved, not the addition of major new programs. Staff has commenced the development of 2012 programs and budgets and will undertake an open, public process as it develops proposed 2012 programs and budgets for consideration by the Board. Staff will forward Shift Into Green Energy's proposal to Honeywell and recommends that Shift Into Green Energy present its proposal to the EE Committee for consideration and further discussion.

Proposed Budget Modifications

Comment: Rate Counsel did not oppose the proposed transfer of approximately $1 million from the "Rebates, Grants, and Other Direct Incentives" category within the Residential HVAC program to the "Rebate Processing, Inspections, and Other Quality Control" category, provided the OCE submits a more detailed breakdown of the budgeted expenses within the Rebate Processing, Inspections, and Other Quality Control category. Given the increase in applications, Rate Counsel did not object to the proposed transfer of funds within the ENERGY STAR Products Program from the "Rebates, Grants, and Other Direct Incentives" category to the "Rebate Processing, Inspections, and Other Quality Control" category, providing that the OCE provides a detailed break-down showing funds budgeted for the (1) "rebate processing", (2) "inspections", and (3) "other quality control" sub-components.

Response: Staff disagrees with any potential opposition by Rate Counsel concerning the appropriateness of transferring funds from "Rebates, Grants, and Other Direct Incentives" category within the Residential HVAC program to the "Rebate Processing, Inspections, and Other Quality Control" category. The following provides the detailed breakdown of the budget as requested by Rate Counsel:

2011 Residential Efficiency Budget Residential HVAC - Electric & Gas				
Item	**PO #**	**Unit Price**	**Forecast Units**	**Total Budget**
Application Processing 1-10,000	**218**	$39.14	10,000	$391,400.00
Application Processing >10,000	**219**	$35.23	56,702	$1,997,611.46
HVAC Inspections	**220**	$226.60	1,903	$431,219.80
Total				**$2,820,231.26**

2011 Residential Efficiency Budget ENERGY STAR Products				
Item	**PO #**	**Unit Price**	**Forecast Units**	**Total Budget**
Process Energy Star & SEEARP Incentives	**242**	$6.18	63,122	$390,093.96
Large Appliance Recycling - Processing	**283**	$18.18	19,600	$356,328.00
Total				**$746,421.96**

EDC Solar Financing Incentive

Comment: The Solar Alliance supported, in general, the recommendations to limit the availability of the ESFI only to projects awarded contracts in the forthcoming June solicitation and to modify the extension policy for CORE and REIP solar projects. However, the Solar Alliance requested that such changes be accompanied by other improvements to the ESFI program.

The Solar Alliance recommended a number of specific changes to the EDC Solar Financing program including an incremental 34 MW of capacity to the remaining two solicitations and an interim six-month extension of the program while awaiting the outcome of the Board ordered review and stakeholder process. The Solar Alliance also recommended a number program changes including allowing developers to submit a consolidated bid package that includes multiple projects, allowing projects interconnected within the last 90 days to participate and changing the EDC metering requirement.

Response: Staff thanks the Solar Alliance for its comments. However, the comments are outside of the scope of this proceeding. As noted by the Solar Alliance, the Board has initiated a stakeholder process to solicit input regarding potential changes to the EDC Solar Financing program. Therefore, Staff recommends that the Solar Alliance's comments be considered in the context of the EDC Solar Financing proceeding.

Comment: Rate Counsel supported the proposed change to the ESFI. In addition, Rate Counsel supports the proposed modifications to the CORE and REIP extension policy and any further changes that will bring these programs closer to conclusion. Rate Counsel reiterated concerns it raised in comments to prior budget orders, namely, that the Board should discontinue funding for the CORE program in 2011 and return those dollars to ratepayers.

Response: Staff appreciates Rate Counsel's support for the proposed changes to the ESFI and the CORE and REIP extension policy. As noted in its response to Rate Counsel's comments in a previous Order, while Staff supports the concept of winding down the CORE program as quickly as possible, it should be done in a manner that respects previous commitments and policies.

Large Energy Users Pilot Program

Comment: The New Jersey Large Energy Users Coalition (NJLEUC) stated that it is generally supportive of the proposed Pilot program as it accomplishes many of its goals and is the result of a process that enabled large customers to play a significant role in the formulation of these important Board policies. The Pilot addresses many of NJLEUC's past concerns regarding the complicated structure and prescriptiveness of past programs, such as the undersubscribed Pay-for-Performance program, and the collaborative nature of this effort should do much to avoid past problems and assure the success of this program. NJLEUC is optimistic that the Pilot will demonstrate that regulatory responsiveness to the needs of the business community will help the State achieve its economic development, energy and environmental goals, thereby paving the way to similar, permanent collaborative efforts in the future. NJLEUC looks forward to the implementation of the Pilot as its members intend to participate to the greatest extent possible.

Response: Staff appreciates NJLEUC's support for the proposed Pilot and thanks NJLEUC's members for the assistance provided in developing the Pilot.

Comment: Rate Counsel proposed a number of modifications to the LEU Pilot. The maximum incentive available was proposed as the lesser of:

- $ 1 million

- 75% of total project(s) cost
- 90% of total NJ CEP fund contribution in the previous year (i.e. from all entity facilities), or
- $0.33 per projected annual kWh saved and $3.75 per projected therm saved annually.

Rate Counsel recommended that the maximum incentive available be modified as follows:

- $1 million
- 100% of the incremental cost
- Project cost buy down to 1.5 years of simple payback, or
- 90% of total NJ CEP fund contribution in the previous year (i.e. from all entity facilities)
- $0.22 per projected annual kWh saved and $2.50 per projected therm saved annually.

Rate Counsel stated that the incremental cost is the cost premium of an efficiency measure over the cost of a standard measure and that tying incentives to incremental cost is one of the most widely used approaches for establishing incentives. Rate Counsel recommended the use of 1.5 payback years as one of the maximum incentive thresholds and that a payback of 2 years is typical for reducing free riders. Rate Counsel stated that, if desired, the Pilot could also use cents per kWh or $ per therm as one of the incentive caps but proposed that such cap be set at $0.22 per kWh and $2.50 per therm saved annually, which is consistent with current incentive caps in the Pay-for-Performance program.

Response: Staff disagrees with the proposed changes to the LEU Pilot recommended by Rate Counsel above. The LEU Pilot was developed, in part, based on the fact that the State's largest customers have argued that the current programs include certain hurdles that make participation difficult. Unlike many other commercial and industrial (C&I) customers, the State's largest customers typically have knowledgeable, in house technical staff that assess energy conservation opportunities and rank such opportunities based on payback. Further, these customers typically must obtain several layers of internal approvals prior to receiving funding for energy conservation projects. The Pilot was designed to overcome some of the existing barriers posed by the current programs which include the need for shorter payback periods and time delays created by current program review procedures.

As noted by Rate Counsel, the Pay-for-Performance program currently has a maximum incentive of $0.22 per kWh and $2.50 per therm saved annually. The program also caps incentives at 50% of a projects cost. The proposed LEU Pilot included a maximum incentive of 75% of a projects cost and $0.33 per kWh and $3.75 per therm saved annually to address concerns raised by the State's largest customers that shorter payback periods were required to obtain internal approvals for financing energy efficiency projects.

Rate Counsel recommends that one of the above noted caps on incentives be modified from 75% of a projects cost to 100% of the incremental cost with the incremental cost defined as the premium of an energy efficiency measure over the cost of a standard measure. Staff concurs that incremental cost is one reason for establishing incentives in many Clean Energy Program incentives in New Jersey. However, Staff takes the position that the use of incremental cost is not an appropriate basis for incentives for the proposed Pilot program.

The majority of existing NJCEP incentives were developed based on the assumption that a customer has made a decision to replace equipment and the incentive is designed to encourage the customer to purchase high efficiency equipment instead of standard efficiency equipment. However, this may not always be the case, particularly for the State's largest customers who often replace equipment early to achieve energy savings. Further, a goal of the Pilot is to achieve deeper more comprehensive savings as opposed to simple equipment replacement. Staff notes that the current incentives for the Pay-for-Performance program are based on total cost, not incremental cost.

Many of Rate Counsel's recommendations have merit and deserve further consideration. However, this is a proposed Pilot program and it is important to commence the Pilot to obtain the information needed to determine whether or not it should become a full blown program next year and, if so, what changes to the Pilot are appropriate. Therefore, Staff recommends that Rate Counsel's comments be considered further as part of the discussions later this year regarding whether or not the Pilot should be continued.

Comment: Rate Counsel recommended that applicants provide two years historical usage data instead of one year as proposed. Rate Counsel stated that one year of historical data may not be representative of baseline consumption due to variation in weather, macroeconomic conditions and operations. Rate Counsel also recommended that applicants provide both annual and lifetime projected energy savings.

Response: The historical data will be utilized to determine contributions to the CEP fund. Staff disagrees with the recommendation to utilize two years of historical data instead of one. One objective of the program is to allow the State's largest customers to self-finance investments in energy efficiency. Utilization of the previous year's usage provides a more accurate estimate of recent contributions to the fund than does the previous two years of usage. Staff concurs with Rate Counsel's recommendation to require applicants to provide estimates of both annual and lifetime energy savings and the proposed Pilot will be modified accordingly.

Comment: Rate Counsel recommended several other modifications to the proposed LEU Pilot aimed at targeting the program to projects that produce deeper energy savings. Specifically, Rate Counsel recommended that a minimum savings threshold of 15% be required and that lighting should not be permitted to comprise more than 50% of the proposed measures. Rate Counsel noted that both of these requirements are consistent with Pay-for-Performance program requirements and would protect against cream skimming and lost opportunities.

Response: As noted above, the existing programs include several obstacles to participation by the State's largest customers. The Pilot was designed, in part, to overcome such obstacles and to create a more streamlined application and review process. The changes proposed by Rate Counsel work against this objective by introducing additional obstacles to participation. Staff recommends that Rate Counsel's proposed changes be considered further as part of the discussions later this year regarding whether or not the Pilot should be continued.

Comment: The Pilot provides that the sum of all federal, state, utility and CEP incentives cannot exceed 100% of a projects cost. Rate Counsel recommends that such incentives total less than 100% of a projects cost. Rate Counsel also recommends that the program include some type of "claw back" provision if the beneficiary ceases operations.

Response: Staff disagrees with both of these recommendations. The program is designed to provide the State's largest customers with an opportunity to self-invest in energy efficiency.

The proposed Pilot caps CEP incentives at 75% of a projects cost and all incentives at 100% of a projects costs. A claw back provision would create additional obstacles to customer participation in the Pilot and would add to the administrative burden. Further, Staff questions the ability of the program to collect payments made to customers, particularly those that have ceased operation, as recommended by Rate Counsel.

Comment: Bloom Energy stated that it believes that the proposed Pilot should have a significant impact in assisting New Jersey in reaching its energy efficiency and greenhouse gas reduction goals by encouraging large energy consumers to engage in more clean energy projects. The program will directly incent those customers who are the largest contributors of funds to the CEP to invest in projects best tailored to their needs.

Bloom Energy stated that while it is generally impressed with the variety and scope of measures included in the Pilot, it is concerned that it does not directly specify eligibility for solid oxide fuel cells, which could concern large energy customers who plan to utilize this new technology for onsite, efficient electricity generation. Unlike typical CHP systems which are eligible for the Pilot, solid oxide fuel cells use waste heat internally to produce more electricity and is ideal for customers who want clean electricity but have limited thermal load.

Response: Staff is currently in discussions with Bloom Energy and others to assess whether or not the NJCEP should provide incentives for solid oxide fuel cells. Staff recommends that the Board consider whether or not solid oxide fuel cells should be eligible for incentives at a later date after Staff has completed its assessment.

Comment: NJNG and PSE&G proposed a number of changes and clarifications to the LEU Pilot as follows:

1 A clarification should be provided as to whether the contributions toward the NJCEP are to be provided on a pre- or post-sales tax basis.

Response: The contributions to the NJCEP are intended to be an estimate of the amount any customer contributed to the CEP trust fund in the previous year. Therefore, the use of pre-sales tax estimates are appropriate since sales tax payments are not contributed to the fund. The Pilot will be modified to clarify the use of pre-sales tax rates.

2. Incentives will be reserved on a first come, first served basis. The program should clarify whether this means the order applications are received or the order applications are approved.

Response: Incentives should be reserved based on the date a completed initial application is received, not on the date an application is approved which is outside of the control of the customer. However, notice that funds have been reserved does not constitute a commitment to pay an incentive and does not create any rights or obligations in contract, equity, or otherwise, on behalf of the Board or the applicant. The actual incentive amount will be based on approval of the final application and is subject to availability of funds.

3. Footnote 5 notes prevailing wage rates apply. This requirement should also be referenced for the cost data submitted in the Table of Energy Conservation Measures (ECMs); the bullet regarding M&V should provide a supporting reference for the IPMVP

Option A or B; the list of required appendices for the Final Energy Efficiency Plan should clarify what audit reports are required; and, the program should develop a standardized format for the submittal of Draft and Final Energy Efficiency Plans.

Response: Staff concurs with each of the clarifications recommended above and will coordinate with TRC to clarify the proposal in the program application materials.

4. There is a disparity on the timeline for submission of the Final Energy Efficiency Plan.

Response: The proposal has been modified to clarify that Final Energy Efficiency Plans are due 120 days from fund reservation.

5. ECMs must be fully installed within 12 months of funding commitment. NJNG and PSE&G suggested that the timeline be reviewed to ensure sufficient time for the purchase, shipment and installation of measures.

Response: Staff recommends that the Pilot be clarified to provide 12 months from approval of the Final Energy Efficiency Plan to complete a project.

6. OCE should clarify during which calendar year that opt-out must occur. PSE&G states that the OCE should clarify that entities with a Standard Offer contract with PSE&G shall not participate in the LEU Pilot if such participation impacts the equipment included in the Standard Offer contract.

Response: Opt out is for the calendar year in which the funds are reserved. That is, participants in the Pilot will opt out of other programs in 2011, not the year projects are installed. The NJCEP currently has mechanisms in place related to customers with existing Standard Offer contracts and such procedures will be utilized for the Pilot as well.

7. The minimum efficiency for gas water heating less than 50 gallons should be increased from 62% to 67% which is the minimum level required to achieve an *EnergyStar* rating.

Response: Staff concurs that the minimum efficiency for gas water heaters should be increased to 67% and the Pilot has been modified accordingly. This change should also apply to any other program managed by TRC.

Comment: NJNG and PSE&G recommended that the Pilot should consider the following additional measures: fuel cells with a minimum efficiency of 50%; ice storage units; and, solar thermal applications. Willdan Energy Solutions submitted comments regarding the proposed Large Energy Users (LEU) Pilot program and attached a list of energy conservation/energy efficiency measures that it recommended be incentivized under the proposed Pilot program.

Response: Appendix B to the proposed Pilot was included to provide the minimum efficiency standards for certain energy efficiency measures, not as a list of eligible measures. The proposed LEU Pilot program does not identify specific measures that are eligible for incentives. Alternatively, the program allows the customer to propose any energy efficiency measure subject to meeting other program eligibility requirements. Further, Staff notes that many of the measures included on the list provided by Willdan are measures for which the program already provides incentives under other programs and thus would be eligible for the Pilot program. With regard to fuel cells, as noted above, Staff recommends that this issue be considered by the

Board at a future date.

STAFF RECOMMENDATIONS

As noted above, the proposed changes to the programs and budgets were presented and discussed at the April 12 and May 10, 2011 meetings of the EE and RE Committees. Thus, many of the comments on the proposals were taken into consideration by Staff prior to coordinating with Honeywell and TRC to develop the proposed changes that were circulated for comment.

In 2010 the Board reduced the incentives for customers that participate in the HPwES program and since that time participation levels slowed and are lower than 2011 program goals. For example, through March 31, 2011, 627 Tier 3 projects have been completed compared to an annual goal of 4,100. Staff supports the proposed time-limited increase in incentives as a means of stimulating additional interest in the program. Staff also supports recommendations in the comments to extend the proposed Summer promotion period through September 30, 2011 given the delays in implementing the proposed promotion.

Honeywell has proposed to shift funds within the Residential HVAC and Energy Star Products program budgets. Specifically, Honeywell has proposed shifting $987,496.90 from the rebate component of the HVAC program budget to the rebate processing component of the HVAC program budget. Honeywell also proposed shifting $240,537.96 from the rebate component of the Energy Star Products program budget to the rebate processing component of the program budget. In both cases the overall program budget would remain unchanged.

Both programs have processed or anticipate processing a significantly larger number of applications than what was anticipated when the 2011 budgets were developed. For both programs, a large number of rebates were processed and paid in December 2010, however, Honeywell did not bill for the fees related to processing these rebates until 2011. In addition, many of the rebates were paid with ARRA funds while the fees for processing the rebates are charged to the NJCEP. The proposed budget modifications will therefore provide sufficient funds related to processing rebates while maintaining sufficient funds to pay anticipated levels of 2011 rebates.

With regard to the proposed changes to the ESFI component of the REIP, as noted above, current economic conditions for solar projects are such that many new projects from all market segments have been financed and constructed without a rebate. Additional incentives are no longer required to encourage customers to participate in the EDC solar financing auctions and therefore Staff supports the proposal to end the incentives subsequent to the auction currently scheduled for June 10, 2011.

Staff also supports the proposed changes to the CORE and REIP extension policy. The CORE program was closed to new applications in 2008 and the REIP ceased offering solar rebates in late 2010. The initial timelines provided for project completion along with the proposed opportunity for an extension provide more than ample time for projects to be completed prior to the rebate approval deadline. Therefore, Staff supports the proposal to limit opportunities to extend CORE and REIP rebate approval deadlines.

Staff has worked closely with TRC, NJLEUC and other parties to develop the proposed Large Energy Users Pilot. The proposed pilot will offer a streamlined process for the State's largest energy users to obtain incentives for installing energy efficiency and CHP projects while incorporating sufficient safeguards to ensure the incentives result in the installation of cost effective measures.

Based on the above, Staff recommends approval of the proposed changes to the programs and budgets discussed above. By letter dated June 8, 2011 Honeywell submitted a revised compliance filing, and by letter dated June 8, 2011 TRC submitted a revised compliance filing incorporating the changes and clarifications discussed above. Staff has reviewed the revised compliance filings and believes they are consistent with the changes discussed above and recommends that the Board approve the filings and authorize Honeywell and TRC to implement the changes as soon as practicable and upon proper notice.

Utilization of State Energy Plan Funds

In addition to the changes to the NJCEP discussed above, Staff is proposing to utilize State Energy Plan (SEP) funds to support the proposed HPwES Summer promotion. Specifically, on May 18, 2010 the Office of Clean Energy ("Staff") submitted the 2010-2011 SEP to the United States Department of Energy ("USDOE"). By Order dated June 7, 2010, Docket # EO10050320 (June 7th Order) the Board approved the 2010-11 SEP Plan, which included $900,488 for HPwES program incentives. The June 7th Order further provided that additional funding from other programs in the SEP could be used for HPwES if unspent.

On July 1, 2010 USDOE conditionally approved New Jersey's 2010-2011 SEP plan. The intent of including HPwES in the SEP plan was to use SEP funding to supplement or expand the Board's HPwES program. Final approval of the 2010-2011 SEP Plan is expected before July 1, 2011.

The programs approved in the Plan are designed to advance State and federal energy conservation and efficiency goals. The Summer promotion meets both the original intent in the SEP to supplement or expand HPwES and complies with the USDOE and Board approved SEP. Therefore, Staff recommends that the first $900,488 in incentives related to the HPwES Summer promotion be paid with SEP funds contingent on DOE final approval. If final approval is not received in a timely fashion then Staff recommends the CEP fund the Summer Promotion within the existing HPwES budget. Staff further recommends that, in the event any funds proposed for the SEP Alternative Fuel Vehicle/Hybrid Vehicle Rebate program, the Hydrogen Learning Center and the SEP Bio-diesel Fuel Rebate program are not spent for the payment of invoices, the Board approve the use of these unspent funds in the HPwES program. In addition, if additional state funding becomes available to the HPwES program, Staff further recommends the use of that state funding prior to the use of the SEP funding to ensure compliance with federal law.

Acceptance of this proposal will result in existing HPwES program incentives being paid with CEP funds and the additional Summer promotion incentives being paid with SEP funds. To avoid duplication and to streamline the administrative process Staff recommends that invoices from Honeywell, the HPwES program manager, for the Summer incentives be processed through the Board's Information Management System (IMS), in the same manner as all other rebate invoices submitted by Honeywell.

Pursuant to the Terms and Conditions of the SEP grant the Office of Clean Energy is authorized to transfer funds up to 10% of the total award among direct cost categories, without prior approval of the awarding agency. Staff recommends a line item transfer of $10,000 to the SEP federal operating budget category for travel and other expenses, with $5,000 transferred from the SEP Alternative Fuel Vehicle/Hybrid Vehicle Rebate program and $5,000 transferred from the SEP Bio-diesel Fuel Rebate program, to pay for expenses related to Staff travel to events related to the SEP and other operating expenses associated with the SEP. The funds are no longer required to meet anticipated expenses for these programs.

DISCUSSION AND FINDINGS

The OCE coordinated with the Market Managers, the NJCEP Program Coordinator and other stakeholders to develop proposed modifications to the 2011 NJCEP programs and budgets. The proposed changes were discussed at the April 12, 2011 and May 10, 2011 meetings of the EE and RE Committees. On May 12 and May 18, 2011 the OCE circulated proposed changes to the programs and budgets to the public for comment, with written comments due by May 20 and May 27, 2011, respectively. Accordingly, the Board **FINDS** that the process utilized in developing the revised 2011 programs and budgets was appropriate and provided stakeholders and interested members of the public the opportunity to comment.

The Board has reviewed the changes to the programs and budgets as well as the comments received regarding the proposed changes. The Board **FINDS** that participation in the HPwES program is lower than 2011 program goals and that the time-limited increase in incentives recommended by Staff is likely to increase participation. The Board further **FINDS** that the HVAC and Energy Star Products programs have processed or are likely to process a significantly larger number of applications than was anticipated. The Board **FINDS** that the proposed transfer of funds will enable the processing of these increased numbers of rebates and that sufficient funds will remain in the rebate components of these programs to pay anticipated 2011 rebates. The Board also **FINDS** that many new renewable energy projects have been financed and constructed without a rebate and that additional incentives are no longer required to encourage participation in the EDC solar financing auctions. The Board further **FINDS** that the timelines provided for project completion in the CORE and REIP programs, together with the proposed opportunity for first and second extensions, provide sufficient time for project completion. The Board therefore **FINDS** that the proposed limitation on opportunities for extension is justified. Lastly, the Board **FINDS** that the proposed Large Energy Users Pilot is likely to stimulate increased investment in energy efficiency and CHP projects by the State's largest energy users. The proposed changes to the programs are reasonable and will support the State's goal of promoting the installation of cost-effective energy efficiency and renewable energy measures. The proposed changes to the budget are also reasonable and required to meet anticipated program participation levels.

Based on the above, the Board **HEREBY FINDS** that the revised budgets and programs set out above are reasonable. Therefore, the Board **HEREBY APPROVES** the revised 2011 budgets recommended by Staff in the tables above. The Board **FURTHER FINDS** that the budget and program changes discussed above are incorporated into compliance filings submitted to the Board for approval. Therefore, the Board **HEREBY APPROVES** the revised 2011 compliance filings filed by Honeywell dated June 8, 2011 and by TRC dated June 8, 2011, and the changes to the 2010-2011 SEP plan as recommended by Staff above. The Board **HEREBY AUTHORIZES** the program managers to implement the budget and program changes set out in the filings as soon as practicable and upon proper notice.

DATED: 6/20/11

BOARD OF PUBLIC UTILITIES
BY:

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PRESIDENT

Jeanne M Fox
JEANNE M. FOX
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

NICHOLAS ASSELTA
COMMISSIONER

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