Agenda Date: 5/21/14
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 EDISON INNOVATION GREEN GROWTH FUND – LOCUS ENERGY'S REQUEST FOR AWARD MODIFICATION) ORDER

DOCKET NO. EG12070655V

Parties of Record:

Sandy Zeglarski, New Jersey Economic Development Authority
Michael Herzig, CEO, Locus Energy, LLC

BY THE BOARD:

On August 15, 2012, the New Jersey Board of Public Utilities ("Board") approved a loan from the Edison Innovation Green Growth Fund ("EIGGF") to Locus Energy, L.L.C., ("Locus Energy") in the amount of $1,454,000 as recommended by the New Jersey Economic Development Authority ("EDA"), which serves as administrator of the EIGGF. Locus Energy requests that the Board authorize modifications to its loan agreement and consent to subordination of the Board's first lien position on all Locus Energy assets except Intellectual Property ("IP"), to a third party, Square 1 Specialty Finance ("Square 1"), up to the total principal amount of the loan. The Board and Square 1 will be pro rata pari passu on IP.

Board Staff has reviewed the underwriting analysis and recommendations for approval by the EDA. Based on that analysis, Board Staff recommends that the Board approve the loan document modifications.

BACKGROUND

Locus Energy provides a monitoring and data analytics services platform for the renewable energy industry. The platform is comprised of hardware and software that has been designed to provide monitoring and data analytics for distributed generation systems in residential, commercial, and utility applications. The platform integrates distributed energy sources into the electric grid and provides customized interfaces and analytics to owners, operators, Original Equipment Manufacturers, financiers, insurers, and regulators in real time.

Locus Energy has stated that its technology provides numerous benefits to the New Jersey ratepayers. The capabilities of Locus Energy's platform include real-time performance monitoring, predictive modeling and net metering. The Company stated that these features enable more efficient grid integration and offer assistance to the entire "solar food chain" (manufacturers, financiers, insurers, installers, owners and operators) in mitigating risks and reducing costs. The platform serves to: reduce the maintenance costs and increase the efficiency of solar installations via the predictive modeling and real-time monitoring data; increase access to capital to fund solar installations by assisting underwriters (insurance and financial) perform due diligence via real-world performance metrics; assist in making solar more accessible by enabling leasing companies (that offer no-upfront costs to the end-users) the ability to monitor their systems remotely via net-metering.

The Board approved approximately $4 million in carryover funds for the EIGGF program in 2012. On June 7, 2011, Locus Energy submitted an EIGGF Intake Form. The Intake Form received a favorable Office of Clean Energy technical review. On January 9, 2011, Locus Energy submitted a full EIGGF application to the EDA. On May 18, 2012, Locus Energy gave its oral presentation to the Clean Technology Advisory Committee and was favorably reviewed. On August 15, 2012, the Board approved a $1.45 million in EIGGF financial assistance to Locus Energy per the EDA report recommending Board approval of the loan based on its underwriting review. The repayment period on the loan began in January 2014. EDA reports that the loan is current and in good standing.

Locus Energy relocated its New York office to New Jersey and committed to creating eight new jobs in the State within two years. It also received an EDA Business Employment Incentive Program Grant of $365,200. Since moving to New Jersey, Locus Energy has added twelve jobs in the state.

LOAN MODIFICATION

Locus Energy requests the Board consent to a factoring arrangement between Square 1 and Locus Energy. Invoice factoring is a cash flow management tool available to high-growth businesses that sell products or services to other business and await payment. Instead of waiting for the actual payments to be realized, factoring allows the conversion of a company's accounts receivable into instant working capital by selling invoices to a factoring company at a small discount.

According to EDA, cash from the factoring arrangement will help Locus Energy reduce the time between receiving incoming revenue and monthly working capital expenses. Additionally, EDA notes that Locus Energy has experienced strong revenue growth over the last year and its transition from an investor only financed company to a bank financed company shows natural growth and positive progression, which is common among high-growth businesses in the Technology and Life Sciences sector. In light of this strong growth, Locus Energy reviewed various financing options, but Square I Specialty Finance offered the most competitive rate and terms overall.

To close on the factoring arrangement with Square 1, Locus Energy requests that the Board execute an intercreditor agreement with Square 1. The Board currently has a first position security interest in all business assets with a negative pledge on IP. Under the terms of the proposed intercreditor agreement, the Board will subordinate its first position on all Locus Energy assets, except IP. [1] In the event of a sale or other disposition of Locus Energy's IP, Square 1 and the Board would share the proceeds pro rata based on the amount of Locus Energy's obligations to each party (pro rata pari passu).

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[1] Unlike the Board's loan modification in In the Matter of the Clean Energy Manufacturing Fund Solicitation – Award Modification, Docket No. EO09120966 (Dec. 18, 2013), Locus Energy is not requesting a "standstill" period nor a restructuring of its loan payments. Locus Energy will continue to make its regular monthly payments.

EDA recommends the Board subordinate its lien on Locus Energy assets so that this high-growth company may continue to fund its working capital growth. EDA has conducted a financial analysis of Locus Energy and considers the company to be in a good financial position, with increasing revenues and the resulting growth in accounts receivable.

DISCUSSION AND FINDINGS

The Board **FINDS** that Locus Energy was awarded a $1.45 million loan on August 15, 2012 under the EIGGF for which repayment began in January 2014. The Board **FURTHER FINDS** that EDA conducted an underwriting review of the Locus Energy request for modification to its loan documents, and recommends that the modifications be approved. The Board **FURTHER FINDS** that Board Staff reviewed the EDA's underwriting analysis of the proposed modifications and concurs with the EDA recommendation that the modifications should be approved.

Based upon consideration of the unique facts and circumstances as stated in this Order, the Board **FINDS** EDA's assessment to be reasonable, namely, that the subordination of the first lien position will allow a growth company to fund its working capital growth and continue on a positive trajectory. The Board also **FINDS** that Locus Energy, Square 1, and EDA have negotiated an intercreditor agreement whereby the Board will subordinate its security position on all assets up to the $1.45 million, except for IP, and the Board will perfect its lien on IP and be pro rata pari passu with Square 1. Therefore, the Board **FINDS** the recommended modifications to be appropriate and proper.

The Board **HEREBY ACCEPTS** Board Staff's recommendation and **HEREBY APPROVES** the modification to the Locus Energy EIGGF loan. The Board **AUTHORIZES** the President of the Board to sign the necessary intercreditor agreement, consistent with the terms of this Order.

DATED: 5/21/14

BOARD OF PUBLIC UTILITIES
BY:

DIANNE SOLOMON
PRESIDENT

JEANNE M. FOX
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

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

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