



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

CLEAN ENERGY

ORDER

IN THE MATTER OF COMPREHENSIVE ENERGY)	
EFFICIENCY AND RENEWABLE ENERGY RESOURCE)	DOCKET NOS.EO07030203
ANALYSIS FOR THE YEARS 2009 -2012: 2 nd REVISED)	
BUDGET)	and EO10110865
IN THE MATTER OF THE 2009 STATE ENERGY)	
PROGRAM – AMERICAN RECOVERY AND)	
REINVESTMENT ACT - FUNDING PLAN)	DOCKET NO.EO09030210
IN THE MATTER OF THE 2009 STATE ENERGY)	
EFFICIENCY APPLIANCE REBATE PROGRAM-)	
AMERICAN RECOVERY AND REINVESTMENT)	
ACT- REALLOCATION PLAN)	DOCKET NO.EG09080611

Brian O. Lipman, 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:¹

This Order memorializes action taken by the Board of Public Utilities (“Board”) at its May 16, 2011 public meeting, where the Board considered proposed modifications to 2011 programs and budgets for New Jersey’s Clean Energy Program as they relate to programs delivered pursuant to the American Recovery and Reinvestment Act and allocating additional funds to the Comfort Partners low-income program.²

Background and Procedural History

The Board has approved a number of programs that provide incentives for customers of non-investor owned utilities (non-IOU) and local government entities. Incentives for non-IOU

¹ Commissioner Nicholas Asselta did not participate in the deliberations or decision on this matter.

² The budgets approved in this Order are subject to State appropriations law.

customers are paid with the American Recovery and Reinvestment Act ("ARRA") funds and incentives for local government entities are paid with both ARRA and New Jersey Clean Energy Program (NJCEP) funds. ARRA funds are provided through three separate grants: State Energy Program (SEP), State Energy Efficiency Appliance Rebate Program (SEEARP), and Energy Efficiency and Conservation Block Grants (EECBG), each of which is described more fully below. Several of the programs are inter-related with a portion of the incentives provided through one of the programs with additional incentives provided from a different program.

For example, in 2010 the NJCEP Direct Install program offered an incentive to small commercial customers, including certain local government entities, equal to 60% of an energy efficiency project's cost. Certain local government entities were also eligible for an EECBG of up to \$20,000. By combining the Direct Install program incentive with an EECBG, a local government entity could receive \$50,000 in energy efficiency measures at no cost with the Direct Install program paying 60% of the cost, or \$30,000, and the EECBG paying the remaining 40%, or \$20,000. The following provides a summary of the current programs that offer incentives to non-IOU and local government customers:

SEP-ARRA

The American Recovery and Reinvestment Act of 2009 ("ARRA"), Pub. L. No. 111-5, 123 Stat 115, is intended to stimulate the economy and to create as well as retain jobs by, among other things, investing in certain energy initiatives. To that end, section 410 of ARRA appropriates funding to the United States Department of Energy ("USDOE") for the approval of additional formula-based grants through the State Energy Program ("SEP"), above and beyond the grants traditionally provided to the States through the SEP.

The additional support for the State Energy Program through the ARRA is collectively referred to as SEP-ARRA. The Board is designated as the State entity "to apply for, receive, and expend" federal funding made available to the State for energy initiatives, such as SEP-ARRA. N.J.S.A. 52:27F-11 m. The Board prepared and submitted an application package conforming to the USDOE's instructions and containing all required information and attachments. The Board received approval of its comprehensive application package ("SEP-ARRA approval") from the USDOE on August 25, 2009. New Jersey was allocated \$73,643,000 in SEP-ARRA funding pursuant to its SEP-ARRA approval, which initially provided for the following programs:

- Energy Efficiency Upgrades for State Buildings (\$6 million);
- Grants for State Sponsored Renewable Energy and Energy Efficiency Projects (\$20.6 million);
- Energy Efficiency Programs through the Clean Energy Program (\$17 million);
- Financing Program for Residential Solar (\$7 million);
- Low-Interest Loan Program for Residential Energy Efficiency ("HESP") (\$4 million);
- Multifamily Energy Efficiency Improvement Pilot ("MEEIP") (\$4 million); and
- Grants for Energy Efficiency, Renewable Energy and Alternative Energy Applications (\$15 million).

Consistent with federal law, the programs included in the comprehensive application package were designed to supplement the State's existing programs, including certain of the NJCEP. 42 U.S.C. § 6323(d).

By Order dated July 15, 2010, Docket Nos. EO09030210 et. al., ("July 15th Order") the Board approved numerous modifications to the SEP-ARRA funding and authorized President Solomon to submit an amended SEP-ARRA application to the USDOE. The amended application was approved by the USDOE on September 7, 2010. In the July 15th Order the Board redirected \$18 million in SEP-ARRA funds to a Combined Heat and Power (CHP) program managed by the New Jersey Economic Development Authority ("EDA"), authorized the reallocation of up to \$1 million of the \$17 million allocated to the Energy Efficiency Programs through the Clean Energy Program (EEP through CEP) to be utilized for program administration costs and approved several other changes to the programs and budgets.

The EEP through CEP was designed in part to offer certain NJCEP incentives to customers in the State that were not otherwise eligible to participate in the NJCEP since they do not contribute to the NJCEP funding, such as customers of municipal electric utilities and those that heat with oil or propane. These programs are referred to as the non-IOU programs. In the July 15th Order the Board expanded the EEP through CEP by allocating funding to NJCEP programs that had expended or committed the entire 2010 budget and without such funding would otherwise have ceased operation. These programs are referred to as "supplemental" programs.

By Order dated December 22, 2010, Docket Nos. EO07030203 and EO10110865 the Board approved 2011 programs and budgets for the NJCEP ("2011 Budget Order") and by Order dated April 13, 2011 the Board approved revised 2011 programs and budgets ("Revised 2011 Budget Order"). The Revised 2011 Budget Order approved a new program to be funded as part of the EEP through CEP, the Direct Install – Local Government Entities Program. The Direct Install – Local Government Entities Program follows the same guidelines as the previously existing Direct Install program; however, in this program up to 60% of eligible project costs are paid with SEP-ARRA funds, rather than with NJCEP funds.

The table below lists the EEP through CEP sub-programs discussed above that were offered in 2010 and/or 2011:

- Home Performance with Energy Star - ARRA Non-IOU
- Home Performance with Energy Star - ARRA Supplemental
- Pay-for-Performance - ARRA-Non-IOU
- Local Government Energy Audit - ARRA-Non-IOU
- Local Government Energy Audit - ARRA Supplemental
- Direct Install - ARRA-Non-IOU
- Direct Install - ARRA Supplemental
- Direct Install - Local Government

EECBG

ARRA authorized the USDOE to award formula based grants under the Energy Efficiency and Conservation Block Grant (EECBG). The Board was awarded \$14,400,700 under the EECBG program of which \$4,160,700 was allocated to energy conservation in State government buildings and the remaining \$10,240,000 was allocated to a program that offered grants in the form of a rebate to 512 municipalities that were not eligible for direct grants through the EECBG program.

By Order dated December 22, 2009, Docket Nos. EO07030203 and EO09050365, the Board approved a filing submitted by TRC, the Commercial and Industrial (C&I) energy efficiency (EE)

Market Manager, which approved a program for distributing the \$20,000 EECBG incentives to the 512 eligible entities. The program required EECBG applicants to participate in an existing NJCEP such as the Direct Install or C&I Retrofit program. As of December 31, 2010, 467 of the 512 eligible entities had submitted an application for an EECBG. TRC has estimated that the 467 applications received in 2010 are eligible for approximately \$7.4 million in grants, leaving approximately \$2.84 million available for additional grants.

In the 2011 Budget Order the Board increased the level of EECBG available to eligible entities from \$20,000 to \$50,000 per entity. The higher EECBG is available to all 512 eligible entities, regardless of whether or not the entity also submitted an application for a \$20,000 grant in 2010. The 2011 EECBG applications will be processed until 100% of the available EECBG funds are spent or committed.

NJCEP

As discussed above, in 2010, EECBGs were made available to 512 entities. For those entities that applied to both the Direct Install program and for an EECBG in 2010, 60% of a projects cost will be funded through the NJCEP and the remaining 40% of a projects cost will be funded with an EECBG, up to \$20,000. In 2011, for those entities that apply to both the Direct Install-Local Government Program and for an EECBG, 60% of a project's cost will be paid with SEP-ARRA funds and the remaining 40% of a projects cost will be funded with an EECBG, up to \$50,000.

SEEARP

By Order dated September 16, 2010, Docket No. EG09080611, the Board approved the comprehensive application for the State Energy Efficiency Appliance Rebate Program ("SEEARP") funding under ARRA.

ARRA provides \$296 million to implement section 124 of the Energy Policy Act of 2005, which established USDOE support for state rebate programs for residential ENERGY STAR appliance products (those products that represent improvements in efficiency compared to the majority of products in the market). SEEARP is intended to save energy by encouraging appliance replacement through consumer rebates; to make rebates available to consumers; to enhance existing rebate programs; to keep administrative costs low while adhering to monitoring and evaluation requirements; to promote State and national tracking and accountability; and to use existing ENERGY STAR consumer education and outreach materials. States received formula based funding to establish or supplement established ENERGY STAR appliance rebate programs to achieve these objectives.

Under the federal ARRA program NJ was awarded \$8,330,740 to supplement the NJCEP appliance rebate program for Products (Clothes Washers, Refrigerators and Dish Washers) and HVAC equipment (Cool and Warm advantage). New Jersey's plan (Plan) included:

1. Expanding the HVAC equipment rebates to Non-Investor Owned Utility and oil/propane customers.
2. Providing additional product rebates.

Staff Recommendations

The following sets out Staff's recommendations related to this matter which were circulated for comment and posted on the NJCEP web site on May 3, 2011.

The SEP-ARRA, EECBG, and SEEARP funding awards all require that 100% of the funding be obligated or spent in 2011 or 2012, with the specific dates varying for each funding source. Staff has been carefully monitoring expenses and commitments for these programs to ensure that all of the available funding is fully utilized. Given the number of programs and interrelationship between the programs, as described above, Staff must monitor activity levels in several programs to determine when to close each program to new applications. If a program is closed to new applicants too soon all of the available ARRA funds may not be utilized, if a program is closed to new applicants too late some applications may need to be returned to customers if funding to pay the incentive is no longer available.

SEP-ARRA and EECBG

TRC has reported that through April 4, 2011, it has received 448 2011 EECBG applications over and above the 467 applications submitted in 2010. TRC estimates these applications, if approved, would be eligible for approximately \$13.4 million in EECBGs which is approximately \$3 million more than the available funding. Staff has also assessed expenses and commitments for the \$16.175 million in SEP-ARRA funds allocated to the EEP through CEP. Staff estimates that pending applications, if approved, would exceed that available funding by approximately \$1.8 million.

Based on the above, in early April 2011, Staff coordinated with the Market Managers to close most of the SEP-ARRA EEP through CEP programs to new applicants. Specifically, Staff directed the Market Managers to close the following programs:

- Home Performance with Energy Star - ARRA Supplemental
- Local Government Energy Audit - ARRA Supplemental
- Direct Install - ARRA Supplemental

Further, as directed by Staff, in April 2011 the Market Managers issued a notice that applications for the following programs will no longer be accepted after May 31, 2011:

- Home Performance with Energy Star - ARRA Non-IOU
- Pay-for-Performance - ARRA-Non-IOU
- Local Government Energy Audit - ARRA-Non-IOU
- Direct Install - ARRA-Non-IOU

The Direct Install - Local Government program remains open to new applicants.

The applications received to date by the Market Managers may result in incentives that exceed the level of available funds for a particular program if all of the applications are approved and all of the projects are completed. Therefore, either additional funds must be allocated to certain programs or the applications must be returned to the customers if insufficient funds are available to issue an approval.

The Direct Install-Local Government program provides significant benefits to local government entities by helping to reduce energy usage and energy costs which will exert downward pressure on property taxes. Therefore, the OCE explored options to redirect funding to the

program so that TRC can approve additional applications. The OCE has reviewed available source of funds and recommends the following:

1. Applications for the 2011 Direct Install-Local Government program are funded 40% with EECBG funds up to \$50,000 and 60% with SEP-ARRA funds. Therefore, a qualified local government entity can receive up to \$125,000 in energy efficiency measures at no cost with \$50,000 from EECBG funds and \$75,000 or 60% from SEP-ARRA funds. Continue approving incentives at the 40% EECBG and 60% SEP-ARRA level until 100% of the EECBG funding is expended or committed.
2. Once 100% of the EECBG funds are expended or committed, allow for 100% of a Direct Install-Local Government program projects cost, up to \$125,000, to be funded using SEP-ARRA EEP through CEP funds.
3. The Board's Revised 2011 Budget Order included a budget of \$27,896,150.92 for the NJCEP Direct Install program. Based on current program activity levels Staff believes sufficient funds are available to meet projected program participation levels. Therefore, once 100% of the SEP-ARRA EEP through CEP and EECBG funds are expended or committed, allow for 100% of a Direct Install-Local Government program projects cost, up to \$125,000, to be funded utilizing NJCEP Direct Install Program funds.

SEEARP

Honeywell has reported that it is targeting May 31, 2011 as the date it will close out both the HVAC and Products component of the SEEARP. Staff is carefully tracking expenses to ensure that 100% of the funding is expended. This may require keeping the program open a short time beyond May 31, 2011. However, it is also possible that the number of applications received by the program close out date could exceed the available funds by a small amount. Therefore, if SEEARP applications are received before the program is closed in an amount that exceeds the SEEARP budget, Staff recommends that the NJCEP Residential HVAC program budget be utilized to pay any SEEARP HVAC incentives and the NJCEP Energy Efficiency Products program budget be utilized to pay any SEEARP Products incentives for which there is insufficient SEEARP funding to pay the incentive.

The Market Managers have issued notices that they will no longer accept applications for SEP-ARRA EEP through CEP Non-IOU programs after May 31, 2011. However, it is possible that the number of applications received by May 31, 2011 could exceed the available funds. Therefore, if the program receives SEP-ARRA EEP through CEP Non-IOU program applications in an amount that exceeds the SEP-ARRA EEP through CEP Non-IOU budget prior to the date the program is closed, Staff recommends that the NJCEP program budget be utilized to pay the incentive for which there is insufficient SEP-ARRA funding to pay the incentive.

Comfort Partners Program

The Comfort Partners program provides for the installation of energy conservation measures in the homes of low-income customers at no cost to the customers. These measures result in a reduction in energy usage and energy costs for the State's neediest customers.

The 2010 budget for the Comfort Partners program was \$32,206,497.01 which resulted in the Utilities installing energy conservation measures in the homes of 6,814 low-income customers. In late 2010 the OCE commenced discussions with the New Jersey Department of Community Affairs (DCA) regarding the potential allocation of \$16 million in federal ARRA Weatherization Assistance Program funds to the Board to supplement the 2011 Comfort Partners program

budget. The Board approved a revised 2011 budget for the Comfort Partners program of \$25,829,308.11, in part, based on the anticipated allocation of \$16 million from the DCA to supplement the Comfort Partners program budget.

However, the Board and the DCA were unable to agree to terms acceptable to the USDOE related to the allocation of the federal ARRA funds from DCA to the Board. Therefore, the anticipated allocation of \$16 million to supplement the Comfort Partners 2011 budget will not occur.

The Board approved 2011 budget is approximately \$7 million below 2010 budget which will reduce the number of homes the program will be able to serve as compared to the number of homes served in 2010. Further, the Utilities have reported to the Board that without additional funds, the contractors that deliver program services will be forced to lay off employees. Therefore, to both enable the program to serve additional low-income customers and to avoid the need to lay off contractors, Staff is proposing to allocate an additional \$5 million to the Comfort Partners program with the funding reallocated from the following programs:

1. \$1 million from the Offshore Wind program budget to reflect the Board's recent approval of a reduction to the rebate for one of the OSW projects.
2. \$600,000 from the CORE program. This program was terminated in 2008. An additional \$600,000 in rebate approvals have expired and these funds are available for allocation to other programs.
3. \$3.4 million from the Renewable Energy Incentive Program (REIP). \$2.9 million in previous rebate approvals have expired and these funds are available for allocation to other programs. In addition, Staff recommends that the EDC Solar Financing Incentive (ESFI) component of the budget be reduced by \$500,000. Staff believes sufficient funds remain in this component of the budget to meet anticipated 2011 participation levels.

The following tables show the revised budgets that incorporate the modifications recommended by the OCE:

2nd Revised 2011 Funding Levels

	Revised 2011 Budget From 4/13/11 Board Order	Line Item Transfers	2nd Revised 2011 Funding Levels
	(a)	(b)	(c)=(a)+(b))
Energy Efficiency Programs	\$320,430,452.17	\$5,000,000.00	\$325,430,452.17
Renewable Energy Programs	\$95,557,891.01	(\$5,000,000.00)	\$90,557,891.01
EDA Programs	\$57,634,153.38	\$0.00	\$57,634,153.38
OCE Oversight	\$7,701,050.81	\$0.00	\$7,701,050.81
TRUE Grant	\$25,000,000.00	\$0.00	\$25,000,000.00
Total	\$506,323,547.37	\$0.00	\$506,323,547.37
Legislative Action	\$52,500,000.00	\$0.00	\$52,500,000.00
Total	\$558,823,547.37	\$0.00	\$558,823,547.37

2nd Revised 2011 Energy Efficiency Program Budget

	Revised 2011 Budget From 4/13/11 Board Order	Line Item Transfers	2nd Revised 2011 Funding Levels
Programs	(a)	(b)	(c)=(a)+(b)
Residential EE Programs			
Residential HVAC - Electric & Gas	\$19,786,157.98		\$19,786,157.98
Residential New Construction	\$19,943,969.50		\$19,943,969.50
Energy Efficient Products	\$16,006,633.80		\$16,006,633.80
Home Performance with Energy Star	\$34,885,329.29		\$34,885,329.29
Residential Marketing	\$1,309,984.00		\$1,309,984.00
Sub Total Residential	\$91,932,074.57	\$0.00	\$91,932,074.57
Residential Low Income			
Comfort Partners	\$25,829,308.11	\$5,000,000.00	\$30,829,308.11
Sub Total Low Income	\$25,829,308.11	\$5,000,000.00	\$30,829,308.11
C&I EE Programs			
C&I New Construction	\$8,867,143.41		\$8,867,143.41
C&I Retrofit	\$39,899,451.30		\$39,899,451.30
Pay-for-Performance New Construction	\$7,471,645.96		\$7,471,645.96
Pay-for-Performance	\$52,355,701.50		\$52,355,701.50
CHP	\$1,002,122.83		\$1,002,122.83
Local Government Energy Audit	\$12,115,170.97		
Direct Install	\$27,896,150.92		
TEACH	\$682,829.50		
Marketing	\$1,075,000.00		\$1,075,000.00
Large Energy Users Pilot	\$20,000,000.00		\$20,000,000.00
Sub Total C&I	\$171,365,216.39	\$0.00	\$171,365,216.39
Other EE Programs			
Green Jobs and Building Code Training	\$678,853.10		\$678,853.10
Competitive Grant-Loan Solicitation	\$30,000,000.00		\$30,000,000.00
Sustainable Jersey	\$625,000.00		\$625,000.00
Sub Total Other Energy Efficiency Programs	\$31,303,853.10	\$0.00	\$31,303,853.10
Total Energy Efficiency	\$320,430,452.17	\$5,000,000.00	\$325,430,452.17

2nd Revised 2011 Energy Efficiency Program Budget

	Revised 2011 Budget From 4/13/11 Board Order	Line Item Transfers	2nd Revised 2011 Funding Levels
Programs	(a)	(b)	(c)=(a)+(b)
Residential EE Programs			
Residential HVAC - Electric & Gas	\$19,786,157.98		\$19,786,157.98
Residential New Construction	\$19,943,969.50		\$19,943,969.50
Energy Efficient Products	\$16,006,633.80		\$16,006,633.80
Home Performance with Energy Star	\$34,885,329.29		\$34,885,329.29
Residential Marketing	\$1,309,984.00		\$1,309,984.00
Sub Total Residential	\$91,932,074.57	\$0.00	\$91,932,074.57
Residential Low Income			
Comfort Partners	\$25,829,308.11	\$5,000,000.00	\$30,829,308.11
Sub Total Low Income	\$25,829,308.11	\$5,000,000.00	\$30,829,308.11
C&I EE Programs			
C&I New Construction	\$8,867,143.41		\$8,867,143.41
C&I Retrofit	\$39,899,451.30		\$39,899,451.30
Pay-for-Performance New Construction	\$7,471,645.96		\$7,471,645.96
Pay-for-Performance	\$52,355,701.50		\$52,355,701.50
CHP	\$1,002,122.83		\$1,002,122.83
Local Government Energy Audit	\$12,115,170.97		
Direct Install	\$27,896,150.92		
TEACH	\$682,829.50		
Marketing	\$1,075,000.00		\$1,075,000.00
Large Energy Users Pilot	\$20,000,000.00		\$20,000,000.00
Sub Total C&I	\$171,365,216.39	\$0.00	\$171,365,216.39
Other EE Programs			
Green Jobs and Building Code Training	\$678,853.10		\$678,853.10
Competitive Grant-Loan Solicitation	\$30,000,000.00		\$30,000,000.00
Sustainable Jersey	\$625,000.00		\$625,000.00
Sub Total Other Energy Efficiency Programs	\$31,303,853.10	\$0.00	\$31,303,853.10
Total Energy Efficiency	\$320,430,452.17	\$5,000,000.00	\$325,430,452.17

2nd Revised 2011 Renewable Energy Program Budget

	Revised 2011 Budget From 4/13/11 Board Order	Line Item Transfers	2nd Revised 2011 Funding Levels
Programs	(a)	(b)	(c)=(a)+(b)
Customer On-Site Renewable Energy	\$23,668,674.18	(\$600,000.00)	\$23,068,674.18
Clean Power Choice	\$68,400.00		\$68,400.00
Offshore Wind	\$11,870,253.00	(\$1,000,000.00)	\$10,870,253.00
Renewable Energy Program: Grid Connected (Formerly REDI)	\$11,282,831.73		\$11,282,831.73
Renewable Energy Incentive Program	\$45,012,455.10	(\$3,400,000.00)	\$41,612,455.10
Edison Innovation Clean Energy Fund (formerly CST)	\$3,655,277.00		\$3,655,277.00
SUB-TOTAL Renewables	\$95,557,891.01	(\$5,000,000.00)	\$90,557,891.01

The EDA and OCE Oversight components of the NJCEP budget remain unchanged

Staff's recommendations related to this matter were circulated for comment and posted on the NJCEP web site on May 3, 2011 ("Notice"), with comments due by close of business on May 10, 2011. The following summarizes the comments provided regarding the Notice, OCE's responses are also included.

Allocation of NJCEP Funds to Backstop ARRA programs

The Utilities support the general concept of using NJCEP funds as a backstop for ARRA funded programs, but all three commenters object to NJCEP funding being made available to customers who do not contribute to the SBC funding. Rate Counsel argues that such an action would provide ratepayer funding for programs that meet ARRA criteria but do not meet NJCEP criteria. The commenter objects that Staff seeks to modify the criteria to provide funding for projects that do not otherwise meet NJCEP program eligibility requirements and that these criteria were established following a lengthy process required by statute; Rate Counsel also notes that the 2011 programs and budgets followed a lengthy process involving stakeholder participation. Rate Counsel contends that the establishment of the eligibility criteria was analogous to a rule-making proceeding and that the Board would be acting arbitrarily were it to approve Staff's proposed modifications by order following the one-week notice and comment period provided. The Utilities cite a decision by the Superior Court, Appellate Division, which found that EDECA "contemplated that monies collected from this charge would be used for the purposes set forth in that statute." *Mid-Atlantic Solar Energy Industries Ass'n v. Christie*, 418 N.J. Super. 499, 505 (App. Div. March 4, 2011). With respect to continuing enhanced benefits for municipalities, Rate Counsel notes that Staff has not provided an end date or a dollar limit for the amount of funding to be provided. In addition, Rate Counsel opposes the use of ratepayer funds for a 100% incentive, saying that a recipient should have a stake in a project's success.

Response: The majority of customers that have participated in ARRA programs to date are customers that contribute to the SBC and are therefore eligible to participate in the NJCEP. In

addition the majority of customers (greater than 97%) contribute to the SBC. Staff believes that sufficient ARRA funds are available to pay incentives to all applications received from customers that do not contribute to the SBC. Therefore, to address the issue raised above, Staff clarifies its proposal as follows: No NJCEP funds will be utilized to provide incentives to customers that are not eligible to participate in a NJCEP. All applications from non-IOU customers will be paid with ARRA funds only.

Comfort Partners

Rate Counsel and the Utilities support the re-allocation of \$5 million to the Comfort Partners program; Rate Counsel urges the Board to continue its efforts to coordinate with the Weatherization Assistance Program. RECO's customers do not participate in the Comfort Partners program and RECO objects to the re-allocation of funding from renewable energy programs in which their customers do participate to Comfort Partners.

Response: Staff appreciates Rate Counsel and the Utilities support for the proposal to transfer funds to the Comfort Partners program. Staff disagrees with RECO's contention that funds should not be transferred to the Comfort Partners. Staff noted in its proposal the need for the transfer of funds including the ability to serve additional low-income homes and to avoid the need to lay off additional contractors. The fact that RECO chose not to participate in this program does not diminish the need for these funds. Moreover, given the minimal nature of the proposed re-allocation in the context of the total SBC funding, and given the small proportion of that funding contributed by RECO's customers, any impact to those customers is de minimus.

Discussion and Findings

The Board has reviewed Staff's recommendations set out above. The Board concurs that the Direct Install-Local Government program is a beneficial program that in addition to the typical benefits associated with energy conservation projects has the added benefit of exerting downward pressure on property taxes by reducing local government energy costs. The Board also recognizes that some flexibility is required to ensure that 100% of the federal ARRA funding be utilized and concurs with Staff's recommendation that additional funds be reallocated to certain programs rather than returning applications to local governments.

The Board has also reviewed the concerns expressed by the commenters and Staff's responses. The Board is aware that the Societal Benefit Charge constitutes the majority of the monies which constitute the Clean Energy Trust Fund and that the benefits for NJCEP programs have historically been limited to those who pay the SBC. The Board concurs that this limitation should be maintained if and to the extent that NJCEP funds are utilized to "backstop" ARRA programs. The Board **FINDS** that NJCEP funds should be utilized to provide incentives only to customers who are eligible to participate in NJCEP programs.

The Board has reviewed the proposed revised reallocation of funds between the various NJCEP and ARRA funded programs discussed above. The Board recognizes that keeping the programs open until there is certainty that 100% of the ARRA funds has been expended could result in the receipt of applications in an amount that exceeds the available funds. The Board **FINDS** that funds are available in certain NJCEP programs to pay the cost of funding applications in excess of available ARRA funds. The Board **FINDS** that it may be desirable to utilize NJCEP funds to pay these applications, for those customers eligible to participate in

NJCEP programs, rather than returning the applications to the customers. Therefore, the Board **FINDS** Staff's revised recommendation to be reasonable.

In light of the interrelationship between the NJCEP and the ARRA programs and the uncertainty in regard to the number of ARRA projects that may cancel, resulting in an under spending of the ARRA funds if the ARRA programs are closed too soon, staff recommends ongoing monthly monitoring of the ARRA budgets and reporting the budgets through the EE Committees on a monthly basis. Such reporting would include reporting monthly to the Board on the number of projects and the outstanding ARRA funds, as well as the potential need for NJCEP funds for ARRA projects.

Based on the above, the Board **HEREBY APPROVES** Staff's recommendations as follows:

1. TRC shall continue approving incentives for 2011 Direct Install-Local Government program applications at the 40% EECBG and 60% SEP-ARRA level until 100% of the EECBG funding is expended or committed.
2. Once 100% of the EECBG funds are expended or committed, 100% of a Direct Install-Local Government program projects cost, up to \$125,000, may be funded using SEP-ARRA EEP through CEP funds.
3. Once 100% of the SEP-ARRA EEP through CEP funds are expended or committed, 100% of a Direct Install-Local Government program projects cost, up to \$125,000, may be funded utilizing NJCEP Direct Install Program funds for those entities eligible to receive NJCEP funding.
4. Once 100% of the SEEARP funds are expended or committed, for those applicants eligible to receive NJCEP funding, NJCEP Residential HVAC program funds may be utilized to pay any SEEARP HVAC program applications received before the date on which SEEARP is closed, and NJCEP Energy Efficiency Product program funds may be utilized to pay any SEEARP Products program applications received before the date on which SEEARP is closed.

The Comfort Partners program provides for the installation of energy conservation measures in the homes of low-income customers at no cost to the customers. The Board **FINDS** that these measures result in a reduction in energy usage and energy costs for the State's neediest customers. The Board further **FINDS** that the 2011 Revised Budget contains approximately \$7 million less for the Comfort Partners program than the 2010 Budget and that fewer households will be served due to the lack of additional funding. The Board **FINDS** that the reallocation of \$5 million of NJCEP funds to the Comfort Partners program will permit more customers to be served. Therefore, the Board **HEREBY APPROVES** the revised NJCEP budgets set out in the tables above.

The Board **HEREBY DIRECTS** Staff to report monthly to the EE Committee regarding the ARRA programs and projects, budgets, and expenditures and to receive comments on the ARRA budgets on a monthly basis. The ARRA budgets and expenditures, as well as the EE Committee comments, shall be reported monthly to the Board.

By letters dated May 10, 2011, the Utilities submitted revised detailed budgets that reflect the changes recommended by Staff. Honeywell and OCE submitted revised detailed budgets by letters dated May 15, 2011. The Board has reviewed the revised detailed budgets and **FINDS** them to be consistent with the overall revised budgets approved herein. Therefore, the Board **HEREBY APPROVES** the revised detailed budgets submitted by Honeywell, the Utilities and the OCE.

DATED: 6/2/11

BOARD OF PUBLIC UTILITIES
BY:



LEE A. SOLOMON
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
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

