



Agenda Date: 1/26/22
Agenda Item: 8E

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF VUK)
STOJANOVIC REGARDING THE DENIAL OF A) ORDER
CHARGE UP NEW JERSEY INCENTIVE AND)
REQUEST FOR FORMAL HEARING) DOCKET NO. QO21101200

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Vuk Stojanovic, Petitioner

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") considers the petition of Vuk Stojanovic ("Mr. Stojanovic" or "Petitioner"), who appeals the denial of his application for an incentive through the Board's Charge Up New Jersey program ("Program") ("Petition").

BACKGROUND

On January 17, 2020, Governor Murphy signed into law S-2252, the Electric Vehicles Act, codified at N.J.S.A. 48:25-1 et seq. ("EV Act"). The EV Act authorized the creation of an incentive program for light duty electric vehicles ("EVs") and at-home EV charging infrastructure. The EV Act established the State's goals for the use of battery operated EVs ("BEVs") and the development of supporting BEV charging infrastructure. In particular, the EV Act authorized the Board to adopt policies and programs to accomplish the State's goals, including reaching at least 330,000 electric vehicles among the total number of registered light duty vehicles in the State by December 31, 2025. N.J.S.A. 48:25-3.

Consistent with the EV Act, and to encourage adoption of EVs, the Board created the Program. The intent of the Program is to encourage the purchase or lease of new light-duty plug-in EVs in the State and assist New Jersey residents with making the switch to driving electric. In its first year, the Program was open to individuals who purchased or leased an EV from January 17, 2020 through December 15, 2020 ("Eligibility Period") as part of the Program's first phase, "The Post-Purchase Incentive" initiative.

The Program's Terms and Conditions ("Terms and Conditions") that were in effect during the Eligibility Period detail the parameters of the Program incentive ("Incentive") and set forth the criteria for determining whether an individual is eligible to receive an Incentive.

The first version of the Terms and Conditions that the Board issued was dated April 8, 2020 (“April 8, 2020 Terms and Conditions”). The April 8, 2020 Terms and Conditions retroactively applied to eligible EVs purchased or leased on the start date of the Eligibility Period and governed all such EVs purchased or leased during the Eligibility Period. At no time in 2020 was there a charger incentive offered by the Board, and, consequently, at no time during the Eligibility Period did the Terms and Conditions provide an incentive for charging equipment.

Pursuant to the “Application Process” section of the Terms and Conditions, eligible individuals who purchased or leased their EVs during the Eligibility Period, and who sought an Incentive could apply for the Incentive post-purchase or after entering their lease. This entailed submitting an application to the Program Administrator, the Center for Sustainable Energy (“Program Administrator”), through one of two methods. First, eligible applicants that did not have internet access could submit a hard copy of their application, including all supporting documentation, to the Program Administrator via standard mail, at the address provided in the Terms and Conditions for such purpose. The Terms and Conditions further provide that an applicant’s submission date for their mailed submission would be determined according to its U.S. mail postmark. Second, eligible applicants with internet access could submit their application, including all required supporting documentation, directly to the Program Administrator via the internet through the post-purchase portal (“Post-Purchase Portal”), at www.ChargeUpNJ.gov.

Moreover, in accordance with the “Program Overview” section of the Terms and Conditions, eligible individuals who submitted all required documentation in either manner described above were to receive notification of their application approval and receive their Incentive check within 180 days of receiving such approval. Pursuant to the Terms and Conditions, an eligible applicant was allotted 14 days to upload via the Post-Purchase Portal all necessary documentation for their application to be processed (“14-day Upload Window”). Failure to comply with this requirement meant that such applicants would have their applications cancelled and would need to reapply anew.

The Terms and Conditions also explained in “Part 1: Application Process” that the Program Administrator would send an application approval notification via email to the email address the applicant provided. The Terms and Conditions did not indicate that the Program Administrator would send an email notification if they denied an applicant’s online Incentive application. Furthermore, the Terms and Conditions specified that if an applicant contacts the Program Administrator and cannot resolve his or her application denial, the applicant must submit an appeal to the Board within 45 days of notification of denial. Finally, the Terms and Conditions stated that “[a]ppeals based solely on an applicant disagreeing with the policies set forth in the [Terms and Conditions] will not be considered.”

Notably, as part of the electronic submission of an application through the Post-Purchase Portal, the Terms and Conditions specifically required applicants to “check the box acknowledging that they have read and understood” the Terms and Conditions at the time of application submission. Within its “Program Overview” section, the Terms and Conditions stated that it was the applicants’ responsibility to review and accept the Terms and Conditions at the time of their application submittal.

The Terms and Conditions did not specify a date certain on which the Post-Purchase Portal was to close. However, the Terms & Conditions noted that applications for Incentives would be processed on a “first-come, first-served basis.” On December 14, 2020, a press release entitled, “NJBPUC Announces Successful Conclusion of First Phase of Charge Up New Jersey Electric

Vehicle Incentive Program,” was posted on the “Newsroom & Public Notices” section of the BPU website (“Press Release”).¹ The Press Release’s fourth paragraph specifically notes that “a letter issued by the NJBPU Secretary’s Office states that the application portal will remain open until March 15, 2021” (“Secretary’s Letter”). The Secretary’s Letter itself, dated December 14, 2020, makes clear that “Applicants must apply for their incentive via the post-purchase portal by March 15, 2021. The online application portal will remain open until March 15, 2021”

STOJANOVIC PETITION

On October 28, 2021, Petitioner filed the Petition seeking a formal hearing, a waiver of the Portal Closing Date and Incentive Application Deadline, the grant of the Incentive in the amount of \$5,000, and the grant of \$500 as reimbursement for the electric vehicle charging station Petitioner installed on his property.

In the Petition, Mr. Stojanovic stated that he purchased his EV, a Tesla Model 3, on March 16, 2020. He also stated that in addition to being “offered the chance to apply for the Incentive”, he was also “offered an opportunity to receive \$500” for the installation of a charging station on his residential property. Petitioner noted that both the Incentive and charging station rebate were predominant factors in his decision to purchase the Tesla, but Petitioner does not indicate who, exactly, made such an offer to him.

Petitioner claimed to have filed his application for an Incentive through the Post-Purchase Portal on March 2, 2021. Petitioner stated he was advised that someone from the program would contact him. Petitioner further claimed that the Program’s parameters allowed him to apply for the Incentive and charging station rebate until March 16, 2021, the first anniversary date following the date of his EV purchase date.

Additionally, Petitioner alleged that he experienced serious computer issues during the period of February through March 2021. In support, Petitioner provided an undated letter from Sean Mullen, Information Security Engineer, that indicated that malware and spyware installations were found on Mr. Stojanovic’s computer on or about April 15, 2021. According to the Petition, Mr. Stojanovic knew he was experiencing computer issues as early as February 2021 and through March 2021 when he claimed to have used the Post-Purchase Portal. Aware of his computer problems, the Petition states that Mr. Stojanovic decided to see if he could mail an Incentive application, and he determined that mailing an application for the Incentive was not an option, despite the Terms and Conditions outlining the process for submitting a mailed Incentive application.

According to the Petition, Mr. Stojanovic contacted the Program Administrator at some unspecified date following Mr. Mullen’s computer investigation in April 2021, and, thereafter, Petitioner spoke to a supervisor at the Program Administrator on May 12, 2021. According to Petitioner, this supervisor advised him that his application was never received through the Post-Purchase Portal, that there was nothing the Program Administrator could do for him, and that his only recourse was to file an appeal to the Board. A review of the Program Administrator’s record of the call reflects the same.

On May 25, 2021, Petitioner wrote an email appeal to the Board’s Division of Clean Energy. Thereafter, on June 11, 2021, Board Staff (“Staff”) responded via email to Petitioner, indicating

¹ See Press Release, at <https://www.bpu.state.nj.us/bpu/newsroom/2020/approved/20201214.html>

that his appeal was in process for consideration. On September 16, 2021, Staff issued a letter response to Petitioner that stated, in relevant part, that the Post-Purchase Portal closed on March 15, 2021. The Staff letter also indicated that, due to the Program Administrator not receiving Petitioner's application and not being able to assign it an application number, Petitioner's application would be considered an "attempted late application" and ineligible for the Incentive. The letter also stated that late applications are ineligible for an appeal with the Board. Following Staff's letter response, Petitioner filed the Petition.

STAFF RECOMMENDATION

The version of the Terms and Conditions in effect on March 16, 2020, the date Petitioner purchased his EV, was the April 8, 2020 Terms and Conditions. While this version of the Terms and Conditions provides for an Incentive for the purchase or lease of an EV, it does not provide for reimbursement for EV charging equipment. Petitioner, therefore, could not have been induced to install and therefore be reimbursed for EV charging equipment, as no reimbursement for EV charging equipment was available under the Program prior to or on his purchase date. Accordingly, Petitioner is not entitled to reimbursement for the EV charging equipment under the Program.

Petitioner's March 16, 2020 purchase date occurred during the Eligibility Period. Petitioner's EV purchase date qualified him to be an eligible applicant for Program participation. However, to apply and be considered for the Incentive, Petitioner would have needed to file timely his application for the Incentive to the Program Administrator. As explained below, Petitioner did not make a timely application.

First, Petitioner claimed to have experienced computer issues that may have hindered the proper submission of his application through the Post-Purchase Portal. Given that Petitioner acknowledged he had "serious computer issues" beginning in February 2021, Petitioner was alerted to and aware of these issues prior to his alleged application submission date of March 2, 2021. If computer issues were a concern, Petitioner could have timely submitted a hard copy application to the Program Administrator at the address provided in both Terms and Conditions for those applicants without internet access. Yet, Petitioner did not submit a hard copy application to the Program Administrator, which would have acted as a safeguard to address any electronic application submission concern he may have had.

Second, Petitioner claimed that the Program's parameters allowed him to apply for the Incentive and charging station rebate until March 16, 2021, the first anniversary date following the date of his EV purchase date. In fact, this is incorrect. Nowhere in either the April 8, 2020 Terms and Conditions or the March 10, 2021 Terms and Conditions, the version of Terms & Conditions would have been controlling on March 16, 2021, is there mention of a one-year EV purchase date anniversary window for application submission.

Third, Petitioner did not receive an application approval notification. If Petitioner had submitted an application via the Post-Purchase Portal, Petitioner would have had to have checked the box indicating that he read, understood, reviewed, and accepted the Terms and Conditions, as such acknowledgement was a required step for submission of an application via the Post-Purchase Portal. Petitioner knew or should have known that his application needed to be completed within the 14-day Upload Window, and knew or should have known he would receive application approval notification from the Program Administrator before the end of such two-week period. Despite this, the first time Petitioner claimed he contacted the Program Administrator about not receiving approval notification was at some unspecified date in April or May, 2021. Petitioner

waited almost a month – if not longer – to contact the Program Administrator regarding his alleged March 2, 2021 application submission. Moreover, Petitioner did not actually speak to a supervisor at the Program Administrator until May 12, 2021.

Fourth, when Petitioner ultimately spoke with the Program Administrator to resolve issues surrounding his application the Program Administrator and Petitioner did not reach a resolution regarding the application because the Program Administrator had no record of receiving his application and Program had been closed to new applicants on March 15, 2021. As a result, the Program Administrator advised Petitioner to file an appeal with the Board's Division of Clean Energy. While Petitioner followed this advice, Staff advised Petitioner that his application was deemed to be late. Specifically, given that the Post-Purchase Portal closed on March 15, 2021, that the Program Administrator never received Petitioner's application, and that the Program Administrator was unable to assign this application an application number, Staff determined Petitioner's application to be an "attempted late application." Moreover, Staff informed Petitioner that late applications are ineligible for either an Incentive or for appeal with the Board.

The Terms and Conditions, which Petitioner necessarily would have needed to acknowledge as part of an electronic application submission, clearly state that Petitioner's disagreement with the policies set forth therein will not be considered. The steps the Program Administrator and Staff followed in reviewing the "attempted late application" are consistent with the policies and provisions contained in the Terms and Conditions. Accordingly, Petitioner's disagreement with the Terms and Conditions, or the effectuation of them, should not be considered.

Staff recommends the Board deny the Petition.

DISCUSSION AND FINDINGS


Following careful review of the Petition, the exhibits included therein, and the applicable Program Terms and Conditions, the Board **FINDS** that the Program does not currently, and did not during relevant times herein, provide a reimbursement incentive for EV chargers. The Board further **FINDS** that Petitioner did not submit a timely application for an Incentive under the Program, either electronically or via hard copy, thereby making his application late. While the Board is sympathetic to Petitioner's computer problems, Petitioner did not attempt to file his application for nearly a year following his EV purchase, and Petitioner failed to file a hard copy application despite his stated knowledge of his serious computer issues. Public notice regarding the timing of the Post-Purchase Portal's closure was posted and available to Petitioner on the BPU's website for several months in advance of such closure. Because the application was late, Petitioner is ineligible to receive the Program Incentive. Additionally, pursuant to the applicable Program Terms and Conditions, Petitioner is ineligible to appeal the Portal Closing Date Incentive Application Deadline. The Board **FINDS** that a waiver of the Portal Closing Date Incentive Application Deadline is inappropriate considering the facts and circumstances presented. Thus, the Board **CONCLUDES** that Petitioner is ineligible to receive reimbursement for the EV charger he installed on his property and is likewise ineligible to receive the Program Incentive.

The Board hereby **DENIES** the Petition.

The effective date of this Order is February 2, 2022.

DATED: January 26, 2022


BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER




UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION OF VUK STOJANOVIC REGARDING THE DENIAL OF A
CHARGE UP NEW JERSEY INCENTIVE AND REQUEST FOR FORMAL HEARING

DOCKET NO. QO21101200

SERVICE LIST

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