

Agenda Date: 4/11/12  
Agenda Item: 8C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE 2009 STATE ENERGY )  
PROGRAM (SEP) / AMERICAN RECOVERY )  
AND REINVESTMENT ACT (ARRA) FUNDING )  
PLAN - REQUEST FOR REALLOCATION )      DOCKET NO. EO09030210

**Parties of Record:**

**Stefanie A. Brand**, Division of Rate Counsel

BY THE BOARD:

By this Order, the Board of Public Utilities ("Board" or "BPU") considers and renders its decision regarding the second reallocation of ARRA/SEP funds and the creation of a Revolving Loan Fund, in order to successfully meet the US Department of Energy's ("USDOE") April 30, 2012 deadline for spending funds distributed pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), Pub. L. No. 111-5, 123 Stat. 115.

**BACKGROUND**

**State Energy Program (SEP) - \$73,643,000**

ARRA awarded New Jersey with \$73,643,000 by the USDOE under ARRA through the State Energy Plan ("SEP") (Grant # DE-EE0000258) to support clean energy efforts in the State. ARRA funds dedicated to the SEP are intended to stimulate the economy and create and retain jobs by, among other things, investing in clean energy initiatives that promote the conservation of energy, reduce the rate of growth of energy demand, and reduce dependence on foreign oil. The deadline established by USDOE for recipients to spend the SEP-ARRA grant funds is April 30, 2012.

At the December 14, 2011 agenda meeting, the Board approved Staff's recommendation to create two new market titles – Energy Efficiency through the State Energy Office ("EE through SEO") and Energy Efficient Equipment Purchases – and the first reallocation of SEP-ARRA funds. The projects approved through the EE through SEO market title were:

1. Trenton Tunnel Lighting Retrofit (NJDOT) - \$2,000,000
2. Challenged Youth Building (DMAVA) - \$1,333,000
3. Heat Pumps at Department of Environmental Protection ("DEP") - \$838,000
4. Lighting Controls at Hughes Justice Complex - \$480,000
5. Upgrade HVAC at NJ Statehouse - \$220,651

The approved EE Equipment Purchases were:

1. High-Efficiency Boilers & Water Heaters at Hunterdon Developmental Center - \$900,000
2. Computers and printers for the NJ Board of Public Utilities - \$450,000
3. Electric Vehicles and Charging Stations for Rutgers EcoComplex - \$115,000
4. Appliances at Challenge Youth Building (DMAVA) - \$23,000

Furthermore, the Board was informed that, between the existing market titles and the two new market titles, all but \$594,924 of the SEP/ARRA funds were now committed to approved projects, and Staff recommended that these uncommitted funds be allocated to future EE Equipment Purchases. The Board approved Staff's recommendation.

On January 12 2012, DOE issued Grant Amendment 009, formally approving the Board's request to create the new market titles and to reallocate ARRA/SEP funds to the projects and purchases noted above.

### **STAFF RECOMMENDATIONS**

By mid-February, 2012, the NJ Department of Transportation informed Board Staff that the LED technology for the Trenton Tunnel project had not yet been fully tested and approved by the US Highway Association, and NJDOT would not be able to complete the approved tunnel project by the April 2012 deadline. Therefore, the associated \$2M in SEP funds is no longer committed to an approved project.

With a goal of successfully spending 100% of the ARRA/SEP funds by the April 20, 2012 deadline, Staff has identified four additional and FINAL opportunities to reallocate these funds:

1. Change Orders associated with EE thru SEO projects (\$340,045)
  - **Division of Military and Veteran Affairs ("DMAVA") - \$340,045**  
This change order includes an upcharge to use laminated glass in the windows at the Challenge Youth Building, as per federal requirements for buildings on Fort Dix (\$78,650); the addition of four (4) new exterior doors to complete the weatherization of the building shell (\$14,395); an increase in equipment realized upon the completion of final engineering, which includes fourteen (14) additional condensers (vs. 8 originally specified), two (2) additional AC units and the associated additional refrigerant, piping, equipment pads and screening, and electrical wiring and controls \$215,000; and the need for Line Hide on the interior of the building to conceal condensate and refrigerant lines (\$32,000).
2. Change Orders associated with EE Equipment Purchases (\$142,496)
  - **Hunterdon Developmental Center (HHS) boilers - \$139,005**  
This increase resulted when the first (3) bids for the boilers had to be rejected by DPMC for not meeting the bid requirements.
  - **DMAVA Appliances - \$3491**  
This change order represents the increased cost to meet Buy American requirements.

3. New EE Equipment Purchases (\$317,714)

- **DMAVA Appliances - \$231,114**

DMAVA has requested an additional \$231,114 in ARRA funds to replace aging, inefficient appliances in NJ National Guard outposts throughout the state. The new appliances are Energy Star certified, which, on average, will realize a 20% energy savings over the current non-rated appliances, exceeding the 15% threshold to realize a 7 year payback.

- **Treasury Electric Vehicles - \$86,600**

The Department of Treasury has requested \$86,600 in ARRA funds to purchase (2) Electric Vehicles ("EV's") and (2) charging stations. The Department of the Treasury proposes a pilot program to test the viability of using electric vehicles as part of the State's passenger vehicle fleet, and will purchase the electric vehicles for use between the Riverview Office Complex and the New Jersey State House in Trenton. These vehicles will be fleet replacements and part of a demonstration project on the value of adding electric vehicles to the Central Motor Pool fleet.

The charging stations and EV parking places will be located at highly visible places in the State House Complex and Riverview Office Park. The State House is constantly visited by influential leaders, the media, and business executives. The Riverview Complex, while a hub of activity for various agencies and businesses during the day, has increased visibility by night, as it also serves as the parking lot for fans of the Trenton Thunder minor league baseball team at adjacent Waterfront Park. This New York Yankee's Double-A affiliate attracted over 375,000 fans for the 2011 season.

The cost of the EV's will include vehicle wraps, to alert the broader public to the State's commitment to advancing alternative energy vehicles and infrastructure. Treasury's Communication Office and the Governor's Office will develop press releases and photo opportunities to publicize the pilot.

The replacement of two aging, gasoline vehicles with the EV's will displace 24,000 gasoline miles annually, resulting in an approximate reduction of 2.7 tons of GHG emissions and \$2645 annual cost savings for fuel.

4. ARRA Revolving Loan Fund ("RLF") (approx. \$3,000,000)

With encouragement from DOE, Staff has pursued the creation of an ARRA Revolving Loan Fund, to capture all unspent SEP funds, thereby retaining the federal funds for EE and renewable energy ("RE") projects. These funds will be administered cooperatively through the Board's SEO and the Economic Development Authority ("EDA"), and will be dedicated to funding energy efficiency and renewable energy projects in state-owned facilities.

The RLF must be administered by a third party and the funds must retain their federal flow-down requirements, including but not limited to, Davis Bacon Act, Buy American, NEPA, Historic Preservation and Jobs Reporting. Whereas the Board and EDA have previously and cooperatively administered ARRA SEP funds through the Combined Heat

and Power program, the parties will continue the relationship to administer the ARRA RLF, based on an amendment to the existing ARRA Memorandum of Understanding ("MOU"). Staff recommends that the Board authorize President Hanna to execute the amendment to the MOU.

In addition to the aforementioned unobligated funds, certain existing SEP programs have indicated to BPU Staff that they will likely not expend all of the funds obligated to their programs by April 30, 2012. These programs include the Home Energy Saving Program ("HESP") and Solar Pilot programs within the Housing Mortgage Finance Agency, Home Performance with Energy Star, and the Montclair State University Solar PV Project, within the Public Entities program. The final amount of unspent funds within these programs will be determined upon the completion of the work by April 30, 2012 and the review of final invoices for confirmation that the expenses are valid and properly documented. However, at this time, Staff estimates that the ARRA RLF will collect \$2.5 to \$3M in unspent funds.

In June, Staff will return to the Board, to report the final outcome of the ARRA SEP Grant, final program budgets and the amount of funds captured by the ARRA RLF.

## **FINDINGS AND CONCLUSIONS**

The Board **FINDS** that the request for additional funds for the EE though SEO projects and EE Equipment Purchases meet the goals of the projects/purchases listed, and the Board **FINDS** that the proposed additional purchases meet the goals of the EE Equipment Purchases market title, and furthers the goals of the ARRA SEP grant and the State's Energy Master Plan. Further, the Board **FINDS** that the ARRA RLF is an appropriate mechanism for retaining all unspent ARRA SEP funds, and the MOU between the Board and EDA satisfactorily outlines the roles and responsibilities of the parties to administer the ARRA funds through the EE through SEO market title, including meeting the federal flow-down requirements associated with the funds, and **DIRECTS** Staff to verify that the budget increases for each project and/or purchase is reasonable and fully documented. The Board further **DIRECTS** Staff to verify that all projects and purchases meet federal flow-down requirements.

The Board **APPROVES** Staff's recommendation to increase funding for the Challenge Youth Building (DMAVA) - \$340,045

Further, the Board **APPROVES** Staff's recommendation to increase funding for the EE Equipment Purchases in the amounts indicated:

1. Hunterdon Developmental Center (HHS) Boilers - \$139,005
2. Appliances at Youth Challenge Building (DMAVA) - \$3,491


Further, the Board **APPROVES** Staff's recommendation to fund the following purchases through the EE Equipment Purchases market title:

1. Appliances at NJNG (DMAVA) - \$231,114
2. Electric Vehicles and Charging Stations for Department of Treasury - \$86,600

Further, the Board **APPROVES** Staff's recommendation to create an ARRA Revolving Loan Fund to capture all unspent ARRA/SEP funds and **AUTHORIZES** President Hanna to execute the Memorandum of Agreement with NJEDA to jointly administer the ARRA RLF established in the EE through SEO market title for loans to fund EE and RE projects in state-owned facilities.

DATED: 4/12/12

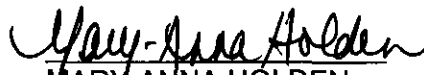
BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

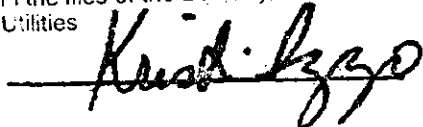
  
NICHOLAS ASSELTA  
COMMISSIONER

  
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



IN THE MATTER OF THE 2009 STATE ENERGY PROGRAM (SEP) – AMERICAN  
RECOVERY AND REINVESTMENT ACT (ARRA) – FUNDING PLAN – REQUEST FOR  
REALLOCATION

DOCKET NO. EO09030210

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**SECOND AMENDMENT TO MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

**AND**

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

This Second Amendment to Memorandum of Understanding ("Second Amendment"), made as of the Effective Date set forth below, by and between the NEW JERSEY BOARD OF PUBLIC UTILITIES ("BPU" or "Board") through its State Energy Office ("SEO"), an instrumentality of the State of New Jersey ("State"), with a place of business at 44 S. Clinton Ave., Trenton, New Jersey 08625 and the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY ("EDA"), an instrumentality of the State, with a place of business at, 36 West State Street, P.O. Box 990, Trenton, New Jersey, 08625 (collectively, the "Parties").

WHEREAS, the Parties entered into a Memorandum of Understanding, dated as of February 2, 2010, ("ARRA-MOU") for purposes of implementing the EDA ARRA Program, a \$15 million grant program which was approved as part of the United States Department of Energy ("USDOE") Grant to the State of New Jersey under the American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("ARRA") and which was described in Attachment 3 appended to the ARRA-MOU and made a part thereof; and

WHEREAS, the ARRA-MOU was amended on September 13, 2010 to include revised attachments and increase the \$15 million grant to \$18 million; and

WHEREAS, there remains additional unspent State Energy Plan ("SEP") funds from USDOE Grant Agreement issued pursuant to the ARRA, which must be expended prior to April 30, 2012 or be lost to the State; and

WHEREAS, the unspent ARRA funds will be captured in a revolving loan fund established within the EE through SEO market title; and

WHEREAS, the Parties have determined to establish the ARRA Revolving Loan Fund Program ("ARRA RLF") for the purpose of utilizing unexpended SEP funds for future energy efficiency and renewable energy projects in State-owned facilities; and

WHEREAS, the BPU, as Prime Recipient of New Jersey's ARRA SEP funds, agrees to obtain USDOE approval and any necessary State approval for the creation and implementation of the ARRA RLF Program; and

WHEREAS, the Parties agree that the BPU, working through the SEO and in conjunction with the State Energy Savings Initiative Oversight Committee, will be responsible for technical review of the proposed projects to determine which State-owned facilities are eligible to fund;

and that during construction, the SEO shall be responsible for monitoring the expenditure of these funds for compliance with State and Federal requirements, including, but not limited to the Davis Bacon Act, Buy American requirements, NEPA, Jobs Reporting requirements and SHPO review, and shall file all required reports; and

WHEREAS, the Parties agree that the EDA will administer the ARRA RLF Program and, as such, shall be responsible for, among other things, performing an underwriting analysis of the projects identified by SEO as technically eligible, and approving loans upon such terms and conditions as EDA deem to be reasonable, but will not be responsible for any monitoring or reporting associated with the federal funds; and

WHEREAS, the Parties agree to collaborate in defining the details of the ARRA RLF at a later time, including the transfer of the above-referenced ARRA funds to EDA for administration of the ARRA RLF Program and the fees payable to the EDA for its services rendered in connection with the Program; and

WHEREAS, it is anticipated that initially, the ARRA RLF will be funded with approximately \$3 million in ARRA SEP funds; and

WHEREAS, the Parties agree that the use of these funds will be in compliance with all Federal requirements associated with the ARRA grants, and future projects funded with these grant funds shall be in compliance with the Federal flow-down requirements; and

WHEREAS, the ARRA-MOU provides that the Parties may modify or amend the ARRA-MOU by a writing signed by both of the Parties; and

WHEREAS, the Parties desire to amend the ARRA-MOU in order to make certain changes thereto, including but not limited to the addition of the ARRA RLF Program.

NOW THEREFORE, in consideration of the promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend the ARRA-MOU as follows:

- 1) The Whereas clauses recited hereinabove are incorporated as if fully set forth in the body of this Second Amendment.
- 2) Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the ARRA-MOU.
- 3) This Second Amendment may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- 4) This Second Amendment shall be effective as of the date of final execution by the Parties (the "Effective Date").
- 5) Except as otherwise modified hereinabove, the terms and conditions of the ARRA-MOU shall remain in full force and effect.



**IN WITNESS HEREOF**, the Parties have executed this Amendment:

**NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**NEW JERSEY BOARD OF PUBLIC UTILITIES**

By: \_\_\_\_\_

Dated: \_\_\_\_\_