



Agenda Date: 3/20/13
Agenda Item: 21

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/

DIVISION OF ENERGY AND
OFFICE OF CLEAN ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF)
ROCKLAND ELECTRIC COMPANY FOR APPROVAL) DECISION AND ORDER
OF AN ENERGY EFFICIENCY PROGRAM AND) APPROVING STIPULATION
ASSOCIATED COST RECOVERY MECHANISMS –)
EXTENSION REQUEST) DOCKET NO. EO12121073

Parties of Record:

James C. Meyer, Esq., Riker, Danzig, Scherer, Hyland & Perretti, LLP, Attorney for the
Petitioner, Rockland Electric Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By Order dated November 23, 2009 ("November 23 Order") in Docket Nos. EO09010056 and EO09010061, the New Jersey Board of Public Utilities ("Board") approved a stipulation establishing an Energy Efficiency Stimulus Program ("EES Program") with three energy efficiency components ("Sub-Programs") for the Rockland Electric Company ("RECO" or "Company") to be implemented for a one-year period ending December 31, 2010. The total budget for EES Program expenditures approved by the Board was \$990,250, consisting of program investments of \$859,250 and operating and maintenance ("O&M") expenses of \$131,000. The costs of the Sub-Programs are recovered through a non-bypassable surcharge on all distribution customers ("RGGI Surcharge"), which was initially set at \$0.000167 per kWh, including SUT.

On December 21, 2010, the Board received RECO's petition requesting that the Board allow the Company to continue to offer the Sub-Programs throughout 2011 or until all budgeted funds had been expended, whichever occurred first ("December 21 Petition"). The Company, the New Jersey Division of Rate Counsel ("Rate Counsel"), and Staff, (collectively, the "Parties"), participated in settlement negotiations and executed a stipulation on March 10, 2011. The Board approved this stipulation by in its Decision and Order dated March 30, 2011 in Docket No. EO10120987 which authorized continuation of the program as requested by the Company.

After discovery, review, and discussion of the Company's 2010 Annual True-Up and updates provided by the Company, on June 1, 2011, the Parties executed a Stipulation implementing a RGGI Surcharge credit of \$0.000047 per kWh, including SUT, to be effective on or after July 1, 2011.

On September 1, 2011, RECO filed with the Board its 2011 RGGI Surcharge Annual True-Up ("2011 Annual True-Up") in Docket No. ER11090516, requesting an increase in the credit from \$.000047 to \$.000053 per kWh.

On February 1, 2012, the Company filed a letter with the Board in Docket No. EO12020115, requesting an extension through December 2012, or until all budgeted funds had been expended, whichever came first, of the Low Income Audit and Install Sub-Program ("2012 Extension Request"). The 2012 Extension Request did not propose to increase the Company's existing RGGI Surcharge or to implement the rate as proposed in the 2011 Annual True-Up. The Parties participated in settlement negotiations and executed a stipulation on March 6, 2012, which the Board approved in a Decision and Order dated March 12, 2012, in Docket No. EO12020115.

On August 31, 2012, the Company submitted its annual RGGI Surcharge True-Up filing proposing an increase in the RGGI Surcharge to 0.0116 cents per kWh, including sales and use tax ("SUT") in BPU Docket No. ER12080795.

By letter petition dated December 12, 2012, the Company requested an extension of the Low Income Audit and Install Sub-Program through December 31, 2013 ("December 2012 Extension Request"). The December 2012 Extension Request did not propose to increase the Company's existing RGGI Surcharge or to implement the rate as proposed in the August 2012 Annual True-Up filing.

In the December 2012 Extension Request, the Company noted that spending through October 2012 on the Low Income Audit and Install Sub-Program was \$435,913, and that the Company projected additional spending through March 31, 2013 to be \$143,000, leaving an estimated sum of \$191,087 to continue this program. The Company states that there is continued interest in the Sub-Program, alleging that 13 additional customers were served in November 2012, and 74 customers had work in progress or were awaiting scheduling. The Company requests approval to use the projected remaining funds for the Sub-Program through December 31, 2013, or until all funds for this Sub-Program are expended, whichever comes first, with a close-out period to end on March 31, 2014.

The Parties have participated in settlement negotiations and executed a stipulation ("Stipulation") on March 18, 2013.

Stipulation

A summary of the key provisions of the Stipulation follows:¹

1. With regard to the Low-Income Audit and Install Sub-Program, the Company will continue this sub-program through calendar year 2013, or until the remaining budgeted funds for the Low-Income Audit and Install Sub-Program have been expended,

¹ Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusion in this Order.

whichever occurs first. The Company will complete any close-out activities by March 31, 2014.

2. RECO is authorized to continue to recover, subject to review, reconciliation and refund, all reasonable and prudent EES Program costs in accordance with the same terms and conditions as approved in the November 2009 Order.
3. The EES Program component of the RGGI Surcharge shall remain at a credit of \$0.000045 per kWh (including SUT) set by the Board in its Decision and Order Approving Stipulation dated April 11, 2012, in Docket No. ER11090516, but this rate is subject to change based on the Board's decision regarding the Company's 2012 Annual True-up filed in Docket No. ER12080795.
4. Staff supports a waiver of the Board's requirement that any further extensions would be filed in conformity with the formal filing requirements under the May 12, 2008 Order for the following reasons: (i) the Company is not proposing a new program, or even an extension of the original EES Program, but merely an extension of the Low-Income Audit and Install Sub-Program component of the EES Program; (ii) based on the information provided by the Company and reviewed by Staff and Rate Counsel, and, based on discussions among the parties, an extension of this component of the EES Program seems to be in the interest of the public; (iii) ratepayers will not incur additional incremental costs; and (iv) it would be impractical under these circumstances to require the Company to abide by the RGGI filing requirements established by the Board's May 12, 2008 Order. The original budgeted amount for the programs was \$770,000.00. Through February 2013, the Company spent \$635,580.14, leaving a balance of \$134,419.86. Rate Counsel does not oppose the grant of a waiver for this extension only.
5. The Company further agrees to file a complete RGGI filing within ninety days of the effective date of the Order approving this Stipulation. The filing will comprise a new EE program with detailed sub-program information, which will replace the existing low income program which is the subject of this stipulation.

DISCUSSION AND FINDINGS

The Board has reviewed the December 2012 Extension Request and Stipulation in this matter. The Low-Income Audit and Install Sub-Program was previously approved by the November 23, 2009 Order. The proposed continuation of this Sub-Program will not increase the existing RGGI Surcharge or implement the rate proposed in the 2012 Annual True-up. The Company reports expenditures for this Sub-Program which support its claim that the sub-program has expended less than its budgeted funds to date. In addition, the Company reports that there appears to be a continuing customer interest in the Low-Income Audit and Install Sub-Program which warrants continuation of this subprogram, subject to the budget limitation. Therefore, the Board FINDS that an extension of the Low-Income Audit and Install Sub-Program until December 31, 2013 or until the budgeted funding for a Sub-Program has been expended is justified on consent of the Parties due to the limited impact on ratepayers, and the continued benefit to qualifying customers.

In addition, the Company has stipulated to submitting a filing pursuant to N.J.S.A. 48:3-98.1 and in compliance with the Minimum Filing Requirements set out in Appendix A of the Board's May 12, 2008 Order in Docket Number EO08030164 within ninety days of the effective date of this

Order. The Board notes that the Company failed to satisfy those requirements in connection with its previous extensions, notwithstanding the Board's direction to do so, and the Board approved those extensions based on the agreement of the Parties to preserve the program for the benefit of customers. The Board **FINDS** that the commitment by the Company to comply with the mandates of the May 12 Order for its next filing is reasonable and in accordance with Board policy supporting well-documented petitions for surcharges under this statute. Since there are no changes in the program, given the budgetary limitation and the commitment to a new filing within a short time, the Board **FINDS** that waiver of the existing requirement for compliance with the provisions of the May 12, 2008 Order for the purposes of this limited extension is warranted.

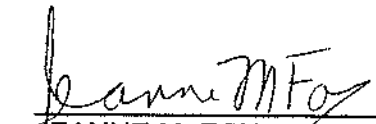
Therefore, the Board, having carefully reviewed the December 2012 Extension Request and the Stipulation, **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with law, and **HEREBY APPROVES** the attached Stipulation in its entirety, incorporating its terms and conditions as though fully stated herein.

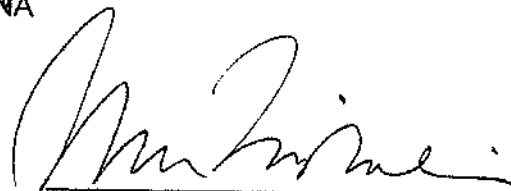
The Board **HEREBY DIRECTS** the Company to file, within ninety days of the effective date of this Order, a petition for a program fulfilling the goals of the November 23, 2009 Order and conforming to the requirements of the Board's May 12, 2008 Order.

DATED: 3/20/13

BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
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.



IN THE MATTER OF THE VERIFIED PETITION OF ROCKLAND ELECTRIC COMPANY FOR
APPROVAL OF AN ENERGY EFFICIENCY PROGRAM AND ASSOCIATED COST
RECOVERY – EXTENSION REQUEST
DOCKET NO. EO12121073

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**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

I/M/O THE VERIFIED PETITION OF ROCKLAND ELECTRIC COMPANY FOR APPROVAL OF AN ENERGY EFFICIENCY STIMULUS PROGRAM AND ASSOCIATED RATE RECOVERY	}	BPU DOCKET NO. EO12121073 EXTENSION OF TERM STIPULATION
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APPEARANCES:

Margaret Comes, Attorney for the Petitioner, Rockland Electric Company

Paul Flanagan, Litigation Manager, **Felicia Thomas-Friel**, Deputy Rate Counsel and **Kurt S. Lewandowski**, Assistant Deputy Rate Counsel, Division of Rate Counsel (**Stefanie A. Brand**, Director)

Carolyn McIntosh and **Alex Moreau**, Deputy Attorneys General, for Staff of the New Jersey Board of Public Utilities (**Jeffrey S. Chiesa**, Attorney General of New Jersey)

TO THE HONORABLE NEW JERSEY BOARD OF PUBLIC UTILITIES

It is hereby AGREED, as of the 19th day of March, 2013, by and among Rockland Electric Company ("RECO" or the "Company"), the Staff of the New Jersey Board of Public Utilities ("Staff"), and the Division of Rate Counsel ("Rate Counsel") (referred to collectively as the "Signatory Parties") to execute this Stipulation of Settlement ("Stipulation") for RECO's Energy Efficiency Stimulus Program ("EES Program").

The Signatory Parties do hereby join in recommending that the New Jersey Board of Public Utilities (the "Board") issue an Order approving this Stipulation.

BACKGROUND

1. On February 20, 2009, RECO filed a Petition (the "Petition") pursuant to the statutory requirements of the Regional Greenhouse Gas Initiative Act (the "RGGI Act"), as codified in N.J.S.A. 48:3-98.1. RECO's Petition sought Board approval to implement a three-year EES Program and recover program costs and revenue requirements through the Company's RGGI Surcharge.

2. After extensive discovery, discussions, and negotiations, RECO, Rate Counsel and Staff executed a Stipulation on November 19, 2009 ("November 2009 Stipulation") setting forth the components of the one-year EES Program and associated cost recovery mechanism that RECO would implement. Specifically, RECO's three EES Program components ("Sub-Programs") and associated one-year budgets are as follows:

	<u>Budget</u>
Low Income Audit and Install Sub-Program	\$770,000
Residential Enhanced Rebate Sub-Program	130,250
On-Line Energy Audit Sub-Program	<u>90,000</u>
Total EES Program Expenditures	\$990,250

3. Detailed descriptions of the three Sub-Programs were set forth in Attachment 2 to the November 2009 Stipulation.

4. By Decision and Order Approving Stipulation dated November 23, 2009 ("November 2009 Order") in Docket Nos. EO09010056 and EO09010061, the Board approved the November 2009 Stipulation.

5. On August 31, 2010, RECO filed with the Board its 2010 RGGI surcharge petition ("2010 Annual True-Up"), in Docket No. ET10090677 in order to reconcile costs and recoveries for calendar year 2010. As directed by the Board in its Order dated February 17, 2010, in Docket No. EO08050326, the Company included in the 2010 Annual True-up the final

reconciliation of the Demand Response Working Group ("DRWG Program") component of the RGGI Surcharge.

6. By letter petition dated December 9, 2010, the Company requested an extension ("Extension Request") of the EES Sub-programs through December 2011, or until all budgeted funds had been expended, whichever came first. Subsequently, on March 10, 2011, RECO, Rate Counsel and Staff executed a Stipulation ("March 2011 Stipulation") agreeing to the extension of the EES Sub-Programs through December 31, 2011 with a close-out period to end on March 31, 2012. The Board approved the stipulation in its Decision and Order Approving Stipulation dated March 30, 2011 in Docket No. EO10120987.

7. After discovery, review, and discussion of the Company's 2010 Annual True-Up and updates provided by the Company, on June 1, 2011, the Parties executed a Stipulation ("June 2011 Stipulation") implementing a RGGI Surcharge credit of \$0.000047 per kWh, including SUT, to be effective on or after July 1, 2011 ("June 2011 Stipulation"). The June 2011 Stipulation and RGGI Surcharge credit of \$0.000047, including SUT, was approved by the Board in its Decision and Order Approving Stipulation dated June 15, 2011, in Docket No. ET10090677.

8. On September 1, 2011, RECO filed with the Board its 2011 RGGI Surcharge Annual True-Up ("2011 Annual True-Up") in Docket No. ER11090516 requesting an increase in the credit from \$0.000047 to \$0.000053 per kWh.

9. On February 1, 2012, because of continued customer interest in the Low Income Audit and Install Sub-Program, the Company filed a letter petition ("February 2012 Extension Request") with the Board in Docket No. EO12020115, requesting an extension through December 2012, or until all budgeted funds have been expended, whichever came first, of the

Low-Income Audit and Install Sub-Program. The February 2012 Letter Petition did not request an extension of the Residential Enhanced Rebate Sub-Program or the On-Line Energy Audit Sub-Program. On March 12, 2012, the Board approved a stipulation in Docket No. EO12020115 (“Decision and Order Approving Stipulation”) executed by the Company, Rate Counsel and Board Staff, agreeing to the extension of the above Low Income Audit and Install Sub-Program through December 31, 2012 or until all remaining budgeted funds for this Sub-Program were expended, whichever occurred first.

10. After discovery, review, and discussion of the Company’s 2011 Annual True-Up and updates provided by the Company, on March 28, 2012, the Parties executed a Stipulation implementing a RGGI Surcharge credit of \$0.000045 per kWh, including SUT, to be effective on or after May 1, 2012 (“May 2012 Stipulation”). The May 2012 Stipulation and RGGI Surcharge credit of \$0.000045, including SUT, was approved by the Board in its Decision and Order Approving Stipulation dated April 11, 2012 in Docket No. ER11090516.

11. On August 31, 2012, the Company submitted its annual RGGI Surcharge true-up filing proposing a RGGI Surcharge of \$0.000116 per kWh, including sales and use tax (“SUT”), in BPU Docket No. ER12080795.

12. On December 13, 2012, because of continued customer interest in the Low Income Audit and Install Sub-Program, the Company filed a letter petition (“December 2012 Extension Request”) with the Board in Docket No. EO12121073, requesting an extension through December 2013, or until all budgeted funds have been expended, whichever came first, of the Low-Income Audit and Install Sub-Program.

13. The December 2012 Extension Request does not request changes to the Company's RGGI Surcharge or modifications to the rate proposed in the 2012 Annual True-Up. Such issues will be the subject of the 2012 Annual True-Up petition filed by the Company in BPU Docket No. ER12080795.

14. The Signatory Parties agreed to submit this Stipulation to the Board for its review and approval, the terms of which are set forth herein. Specifically, the Signatory Parties hereby **STIPULATE AND AGREE** as follows:

STIPULATED MATTERS

A. Energy Efficiency Stimulus Program

15. With regard to the Low-Income Audit and Install Sub-Program, the Company will continue this sub-program through calendar year 2013, or until the remaining budgeted funds for the Low-Income Audit and Install Sub-Program have been expended, whichever occurs first. The Company will complete any close-out activities by March 31, 2014.

B. Cost Recovery Mechanism

16. RECO is authorized to continue to recover, subject to review, reconciliation and refund, all reasonable and prudent EES Program costs in accordance with the same terms and conditions as approved in the November 2009 Order.

C. RGGI Rider Rate

17. The EES Program component of the RGGI Surcharge shall remain at a credit of \$0.000045 per kWh (including SUT) set by the Board in its Decision and Order Approving Stipulation dated April 11, 2012, in Docket No. ER11090516, but this rate is subject to change based on the Board's decision regarding the Company's 2012 Annual True-up filed in Docket No. ER12080795.

18. The March 12, 2012 Decision and Order Approving Stipulation stated that a request for further extension of the EES Program shall conform to the RGGI filing requirements of the Board's May 12, 2008 Order in Docket No. EO08030164 unless otherwise ordered by the Board. Staff hereby supports a waiver of the Board's foregoing requirement in this instance for the following reasons: (i) the Company is not proposing a new program, or even an extension of the original EES Program, but merely an extension of the Low-Income Audit and Install Sub-Program component of the EES Program; (ii) based on the information provided by the Company and reviewed by Staff and Rate Counsel, and, based on discussions among the parties, an extension of this component of the EES Program seems to be in the interest of the public; (iii) ratepayers will not incur additional incremental costs; and (iv) it would be impractical under these circumstances to require the Company to abide by the RGGI filing requirements established by the Board's May 12, 2008 Order. The original budgeted amount for the programs was \$770,000.00. Although the Company is continuing to review and process February invoices, February invoices to date show that through February 2013, the Company has spent approximately \$635,580.14, leaving a balance of approximately \$134,419.86.

19. Likewise, Rate Counsel does not oppose the issuance of a waiver for the instant extension filing only. However, the Company agrees that going forward, any further extensions of or substantive modifications to its EE program must conform to the RGGI filing requirements established by the Board's May 12, 2008 Order pursuant to N.J.S.A. 48:3-98.1(c).

20. The Company has advised Staff and Rate Counsel that it intends to file a new RGGI petition in 2013 to replace the Low Income Audit and Install Program. The Company agrees that it will file the new RGGI petition within ninety days of the effective date of the Order approving this Stipulation.

E. November 2009 Stipulation

21. The Signatory Parties agree that, except to the extent modified by this Stipulation, the terms and conditions of the November 2009 Stipulation, as approved by the Board's November 2009 Order, remain in effect.

CONCLUSION

22. This Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board, in any applicable Order(s), then any Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

23. It is the intent of the Signatory Parties that the provisions hereof be approved by the Board as being in the public interest. The Signatory Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.


24. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, the Company, Board Staff, and Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein and, in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding

upon them and shall not be asserted in any other proceeding, except to enforce the terms of this Stipulation.

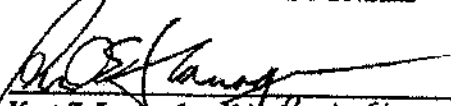
25. The Signatory parties further acknowledge that any resolution of any issue agreed to in this Stipulation, shall become effective upon service of the Board Order on all parties of record, unless a later date is indicated in the Order.

WHEREFORE, the Signatory Parties hereto do respectfully submit this Stipulation and request that the Board issue an Order approving it in its entirety, in accordance with the terms hereof.


ROCKLAND ELECTRIC COMPANY
Petitioner

By: 
Margaret Comes
Senior Attorney

STEFANIE A. BRAND, DIRECTOR
DIVISION OF RATE COUNSEL

By: 
~~Kurt S. Lowndorff~~ *Past Flanagan*
Asst. Deputy Rate Counsel

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JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: 
Carolyn McIntosh
Deputy Attorney General