



Agenda Date: 10/28/21
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 YESHA)
SANJI'S APPEAL OF THE BOARD OF PUBLIC)
UTILITIES' DECISION DENYING ELECTRIC CAR)
POINT-OF-SERVICE REBATE AND REQUEST FOR)
FORMAL HEARING) DOCKET NO. QC21081102

Party of Record:

Yesha Sanji, Petitioner

BY THE BOARD:

By this Order, the Board of Public Utilities ("Board" or "BPU") considers the petition of Yesha Sanji ("Ms. Sanji" or "Petitioner"), who appeals the denial of her application for an incentive through the Board's Charge Up New Jersey program ("the Program.")

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 created 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 electric vehicles, 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 covered individuals who purchased or leased an EV from January 17, 2020 through December 15, 2020.

The Program launched for a second year on July 6, 2021 (“Program Effective Date”).¹ In its second year, the Program (“FY22 Program”) was designed to further simplify the process for applicants by providing an incentive that is applied in full directly at the time of the point-of-sale (“POS”) or transaction, with all documentation facilitated by the salesperson or representative at the dealership or showroom. The Program Administrator then reimburses the dealership or showroom in full for the incentives paid to consumers.

The Program Terms and Conditions (“Terms and Conditions”) provide that to receive the incentive, “an applicant must meet the incentive requirements and eligibility criteria and sign the Charge Up New Jersey Terms and Conditions at the time of vehicle transaction in a New Jersey dealership or showroom.”² See Terms and Conditions - Application Process. Among other criteria, the Terms and Conditions require that the entirety of the purchase or lease for an eligible vehicle must occur on or after the official launch of Phase Two. “Vehicles ordered in advance of Phase Two, Point-of-Sale Program, launch will not be eligible for an incentive.” See Terms and Conditions - Applicant Eligibility.

Sanji Petition

On August 23, 2021, Ms. Sanji filed this petition seeking a formal hearing and the granting of the FY22 Program Point-of-Sale incentive. The petition states that on July 2, 2021, Ms. Sanji read “an Official Press Release on the Governor’s Office website titled “‘ICYMI: NJBPU Launches Year 2 of Popular Charge Up New Jersey Electric Vehicle Rebate Program’.” Petitioner maintains that this press release stated that “Beginning Today, Customers Can Receive up to \$5,000 Incentive at the Point of Purchase” and that she captured a screenshot of this press release on her smartphone on July 3, 2021; Petitioner includes a reproduction of this screen shot in the petition. According to Petitioner, the press release she had seen stated that the Program opened on July 2, 2021. Ms. Sanji states that on July 5, 2021 she purchased an EV in specific reliance upon this language. Petition at Paragraphs 8-11.

Petitioner further states that she discussed the Point-of-Sale rebate with the representative of the dealership, and that the representative had “acknowledged the official press release but stated that the dealership did not yet have access to submit requests for a rebate.” On July 7, 2021, Petitioner represents that she spoke to a representative of the Program who told her that there was a miscommunication between the Governor’s Office and the Board of Public Utilities, resulting in “an administrative error” and that Petitioner should contact Staff. Petition at Paragraphs 12-14. Petitioner describes communications with Staff, including receiving a July 20, 2021 email response stating, “Only vehicles ordered and purchased or lease on or after July 6 are eligible for the incentive.” The same email advised Petitioner that the Governor’s office press release did contain a typo indicating the wrong date, but also stated that the announcement was not posted until the afternoon of July 6, 2021. Petitioner rejects Staff’s explanation, stating that she was denied because of an administrative error and that Staff erred in saying that she could not have seen an Official Press Release prior to July 6, 2021. Petition at Paragraphs 15-22.

STAFF RECOMMENDATION

Ms. Sanji first contacted Board staff (“Staff”) via electronic mail on or about July 8, 2021. Petitioner informed Staff that she purchased an electric vehicle on July 5, 2021, relying upon the availability

¹ <https://www.state.nj.us/bpu/newsroom/2021/approved/20210706.html>

² <https://chargeup.njcleanenergy.com/sites/default/files/docs/Charge Up New Jersey Terms and Conditions.pdf>

of the FY22 Program incentive as described in what she contends was a press release from the Governor's Office stating the Program opened on July 2, 2021. However, the dealership at which she made the purchase on July 5, 2021 informed her that the Program website would not allow it to submit her paperwork. Ms. Sanji attached to an email to Staff what she described as a screenshot of a press release posted to the Governor's Office website from Saturday, July 3, 2021 and also a PDF print-out from the Governor's Press Releases posted on July 7, 2021.

Staff responded on July 20, 2021, advising Petitioner that the announcement which announced the opening of year two of the Program was not posted on the Governor's Office website until the afternoon of July 6, 2021. Staff further responded that an incorrect date appeared in that announcement but that the Uniform Resource Locator ("URL") in the footer of the printout Petitioner provided indicated that the document was posted to Governor's Office website on July 6, 2021. Since dealers did not have access to the rebate system prior to the July 6, 2021 announcement, Ms. Sanji's dealer could not provide a rebate prior to that date. Moreover, vehicles purchased prior to that date were not eligible for an FY22 Program rebate.

Petitioner responded the following day, asserting that the date on the document she had provided indicated only that it had been put into Portable Document Format ("PDF") on that date, but that she had an email chain to verify its actual date. In addition, Petitioner asserted that the screenshot she had provided also demonstrated that the announcement on which she had relied had appeared prior to her purchase.

On August 12, 2021, Staff responded to Ms. Sanji with a letter in which it stated that reliance on official state policy should be placed only on official documents such as an official press release. Staff reiterated that the erroneous date on the Governor's Office press release ("Official Press Release") had not resulted in any unfairness to would-be Program participants such as herself because the that press release had not been posted until the afternoon of July 6, 2021 ("Program Effective Date"). As a result, it was impossible for the Official Press Release to have been seen prior to the opening of the FY22 Program.

Staff's investigation of the matter found that the language of the Official Press Release launching the Program was still being reviewed and was not approved until July 6, 2021. Staff's investigation did not reveal any indication that the Official Press Release was published by the Governor's Office or any other source prior to the afternoon of July 6, 2021. Staff recommends that the Petition be denied.

DISCUSSION AND FINDINGS

Following careful review of the petition, the attachments, and the Program files, the Board **FINDS** that any announcement relating to the Program that Petitioner claims to have viewed on or around July 2, 2021, on which Petitioner represents that she relied in purchasing an electric vehicle on July 5, 2021, was not the Official Press Release used to launch the FY22 Program. The Board **FINDS** that any announcement as described in the petition and attachments to the petition did not come from the Governor's Office or the Board. The Board **FURTHER FINDS** that the Official Press Release launching the FY22 Program was posted on the Governor's Office website on the afternoon of July 6, 2021. Thus, the Board **CONCLUDES** that the announcement upon which Petitioner says that she relied was not the Official Press Release.

Petitioner asserts that she has been disqualified for a Program incentive because of an administrative error. The Board does not concur. Staff has acknowledged that an incorrect date appeared in the header in the Official Press Release, but the Official Press Release was not

published and did not appear until the Program Effective Date. Thus the denial of Petitioner's incentive was based not on an administrative error but on Petitioner's failure to comply with the Terms and Conditions of the Program. As noted above, the Terms and Conditions expressly exclude vehicles ordered in advance of the FY22 Program launch.

The use of the Official Press Release to mark the launch of the Program is intended in part to prevent miscommunications with Program participants, and it has functioned well. In its first two years, the Program utilized all committed funding to help provide nearly 9,000 new EVs to New Jersey residents. The Board regrets any inconvenience this misunderstanding has caused to Ms. Sanji and her family but **DENIES** the petition.

The effective date of this Order is November 4, 2021.

DATED: *October 28, 2021*

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 YESHA SANJI'S APPEAL OF THE BOARD OF
PUBLIC UTILITIES' DECISION DENYING ELECTRIC CAR POINT-OF-SERVICE REBATE
AND REQUEST FOR FORMAL HEARING

DOCKET NO. QC21081102

SERVICE LIST

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