

**Linda Wetzel**

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**From:** jwjenks@netzero.com  
**Sent:** Tuesday, September 27, 2011 1:11 PM  
**To:** publiccomments@njcleanenergy.com  
**Subject:** Smart Growth incentive policies

Dear Sir: I agree with the OCE evaluation of the current energy efficiency policy and agree that the New Jersey clean energy program should eliminate the restrictive policy of only incentivizing energy efficiency in Smart Growth areas. Energy efficiency, regardless of location is important to meet the goals set for New Jersey as whole. New construction is not the only place where energy efficiency should be encouraged. Many buildings not in Smart Growth areas may be old and have old equipment that needs replacing. Often an owner feels a sense of satisfaction and community responsibility when they are provided an incentive to upgrade to a more efficient piece of equipment. Energy efficiency should be encouraged across the state not just in specific regions.

John Jenks  
Quantum Solar Solutions Owner  
Marlton, NJ

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57-Year-Old Mom Looks 25  
Mom Reveals Free Wrinkle Trick That Has Angered Doctors!  
<http://thirdpartyoffers.netzero.net/TGL3231/4e8203fc6fff58c3bddst02duc>

## Linda Wetzel

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**From:** Joseph Scarpa, LEED AP, EcoBroker <JScarpa@GreenParadigmRealty.com>  
**Sent:** Tuesday, September 27, 2011 12:27 PM  
**To:** publiccomments@njcleanenergy.com  
**Subject:** RE: Smart Growth Policy Proposal

The societal benefit charge should not pay for any improvements in any non-Smart-Growth designated areas. Any building owner or developer that does not build green has no business being in the 21<sup>st</sup> century construction industry.

Rather, such funds should be directed to redevelopment of vacant buildings—say, any building in Smart-Growth designated areas that has been vacant for at least two years of the last five—upon resale to an interested redeveloper/owner/occupant. One could be more restrictive and release funds towards only those buildings that register for LEED certification (note that registration of a building for LEED certification is typically done very early in the redevelopment/certification process).

Joseph Scarpa, LEED AP, GREEN, EcoBroker, e-PRO  
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Green Paradigm Realty LLC is a commercial real estate brokerage / advisory firm specializing in green building, renewable energies, and sustainable development.

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**From:** [renewables-bounces@njcleanenergy.com](mailto:renewables-bounces@njcleanenergy.com) [<mailto:renewables-bounces@njcleanenergy.com>] **On Behalf Of** Linda Wetzel  
**Sent:** Tuesday, September 27, 2011 11:49 AM  
**To:** [ee@njcleanenergy.com](mailto:ee@njcleanenergy.com); [renewables@njcleanenergy.com](mailto:renewables@njcleanenergy.com)  
**Subject:** Smart Growth Policy Proposal

The Office of Clean Energy has prepared Proposed Changes to New Jersey's Clean Energy Program Smart Growth Policies. Comments are due by October 14, 2011 and should be submitted to: [publiccomments@njcleanenergy.com](mailto:publiccomments@njcleanenergy.com).

Linda

Linda Wetzel  
*Director, Marketing & Communications*  
**Applied Energy Group, Inc.**  
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**Linda Wetzel**

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**From:** Bamber12@aol.com  
**Sent:** Tuesday, September 27, 2011 2:13 PM  
**To:** publiccomments@njcleanenergy.com  
**Subject:** smart growth incentives

there should be a policy that allows solar farms to be built on existing brownfields and more importantly, to interconnect at the 69kv level at the site of the brownfield, and be considered as distribution , not transmission as long as the line stays in NJ , thereby qualifying the production of power produced for SRECS.

sincerely  
Will Kahane

## Linda Wetzel

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**From:** Clay Rager <clay@ragerenergy.com>  
**Sent:** Wednesday, September 28, 2011 12:58 PM  
**To:** publiccomments@njcleanenergy.com  
**Subject:** opinion

Our opinion on new construction "New construction should receive incentives no matter where it is being done in the state.

Too late I guess for the new home we constructed last year, to RESNET and BPI standrds, along with high efficient appliances, Geo thermal heat pump and topped off with Solar PV. One Mile from the so called smart growth zone.

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*Clay Rager*  
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"We shall all require a new manner of thinking if mankind is to survive."

Albert Einstein

My profiles: [LinkedIn](#)

**Linda Wetzel**

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**From:** Joseph Porrovecchio <porro@optonline.net>  
**Sent:** Thursday, September 29, 2011 6:12 PM  
**To:** publiccomments@njcleanenergy.com  
**Cc:** Wayne Defeo  
**Subject:** Proposed Changes to New Jersey's Clean Energy Program Smart Growth Policies

Comment, Smart Growth Policies consistent with global climate change legislation and BPU Energy Master Plan initiatives should tie rebates to USGBC LEED rating system and to sustainable where possible. We believe that new construction should be incentivized to be as efficient as possible using building energy model or other techniques that demonstrate the combined benefit for both low cost insulation with high performance mechanical equipment and appliances.

## Linda Wetzel

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**From:** Lance <lmiller2@aol.com>  
**Sent:** Thursday, October 13, 2011 4:47 PM  
**To:** publiccomments@njcleanenergy.com  
**Subject:** Smart Growth Policy Proposal

The OCE's proposed changes to the previously established smart growth policies makes the case for why energy efficiency buildings should be done everywhere in the State. This is correct, but the policy issue is how that should be done and who should bear the cost. If the Clean Energy Program incentives were made available to any new construction, those that choose to build in areas of the State that are not designated for growth would have that decision subsidized by all NJ ratepayers. New construction in areas not designated for growth can result in environmental degradation and other societal impacts. While anyone can choose to live where they want in the State and build a business where they want the issue is should government programs support that decision or should the developer bear the full cost of that development. Making it the responsibility of the developer to bear these costs if building in an area not designated for growth is a key principal in Executive Order 4. For the Board to shift to the approach put forth in the OCE paper it would seem necessary that the Executive Order would first need to be rescinded.

This is reinforced by there being another means to achieve the stated desire result of having all new buildings be energy efficient. If the current building code does not result in energy efficient buildings it should be changed so this is the result. Then the Clean Energy Program incentives can focus on testing new efficiency opportunities that may become code as some point in the future. These incentives are properly targeted to new development that is in an area that is designated for growth.

Rewarding someone for building in an area that is not designated for growth and places additional environmental and financial burdens on NJ citizens, taxpayers and ratepayers is simply the wrong public policy. The existing restrictions should remain in place.

These comments are my own personal thoughts and do not reflect the input from my employer or any of my comments.

Lance Miller



**South Jersey Gas**

*Where we put all of our energy®*

**John F. Stanziola**

*Director, Regulatory Affairs*

**October 14, 2011**

**Office of Clean Energy**  
**publiccomments@njcleanenergy.com**

To Whom It May Concern:

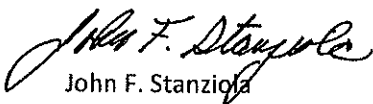
Thank you for the opportunity to comment as the Office of Clean Energy considers its recommendations to the NJBPU on the state's policies surrounding NJCEP incentives in both Smart Growth and non-Smart Growth areas. South Jersey Gas shares the concerns of the OCE that continuing to prohibit incentives in non-Smart Growth areas will result in the construction of less energy efficient buildings, and limit the state's ability to meet the goals of its Energy Master Plan.

As you know, South Jersey Gas' service territory is located within the seven southern counties of the state, and is comprised largely of land designated as non-Smart Growth. As such, we have seen firsthand the impacts that energy efficiency incentives can have on new construction and upgrades on existing construction, as well as the cost impediments that exist without incentives. Therefore, South Jersey Gas supports a recommendation by the OCE to take a balanced approach to incentivizing energy efficiency by making new construction projects, and all other energy efficient projects in non-Smart Growth areas, eligible for NJCEP incentives. This will help ensure that the cost of high efficiency equipment does not deter a builder from ensuring that his construction is as energy efficient, environmentally responsible, and cost effective as possible.

In closing, we believe a change in policy will not incentivize developers to build in non-Smart Growth areas, but rather provide incentives to install high efficiency equipment to those already building in non-Smart Growth areas. Additionally, such a change will present a consistent message that energy efficiency is paramount, furthering the state's long terms energy efficiency objectives and providing consumers with a long term vehicle for energy savings.

Thank you again for the opportunity to comment. As always, South Jersey Gas looks forward to working with the Office of Clean Energy on these and other important policy matters.

Sincerely,

  
John F. Stanziola



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October 11, 2011

New Jersey Energy Coalition  
207 Bogden Blvd., Suite D  
Millville, NJ 08332

**Re: Request for Comments on Clean Energy Smart Growth Policy**

To Whom It May Concern:

The Cape May County Chamber of Commerce (CMCCC) shares the Office of Clean Energy (OCE) concern that the Board of Public Utility's (BPU) current policy, which does not provide for NJCEP incentives for most new construction in non-Smart Growth areas, could result in less energy efficient buildings being constructed in non-Smart Growth areas, limit the ability to meet the State's energy savings goals set out in the State Energy Master Plan and result in lost opportunities to reduce energy usage in the State.

The Cape May County Chamber of Commerce favors the NJCEP incentives in the form of rebates that are intended to provide an incentive for the customer to upgrade to high efficiency equipment, not to cover the cost of installing or replacing equipment. The CMCCC agrees that NJCEP incentive does not serve as an incentive to build in a non-Smart Growth area but instead provides an incentive to install high efficiency equipment to those that have already decided to build in a non- Smart Growth area. We believe that this same theory applies to the design of incentives for new construction.

The CMCCC agrees with the Office of Clean Energy (OCE), that any new construction in New Jersey should be as energy efficient as possible. In addition, the CMCCC recognizes that in these economic times no business or citizen of this State should be economically disadvantaged by any discriminating economic incentives policy, based on their location within the State. Therefore, the CMCCC is in favor of the OCE recommending that the BPU eliminate policies that limit most NJCEP incentives to new construction in Smart Growth areas of the State.

Sincerely,

Vicki T. Clark, President

*The mission of the Cape May County Chamber of Commerce is to be the voice of the business community by promoting tourism and economic development through legislative advocacy, marketing services, networking opportunities and educational programs for member businesses.*





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CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

STEFANIE A. BRAND  
*Director*

**In the Matter of Comprehensive Energy Efficiency  
and Renewable Energy Resource Analysis  
for 2009-2012 Clean Energy Programs:  
2011 Programs and Budgets: Compliance Filings  
BPU Docket Nos. EO07030203 and EO10110865**

**Proposal to Change Clean Energy Program Smart Growth Policies**

**Comments of the New Jersey  
Division of Rate Counsel**

**October 14, 2011**

The Division of Rate Counsel ("Rate Counsel") would like to thank the Board of Public Utilities ("BPU" or "Board") for the opportunity to present our comments on the proposal to eliminate policies that limit most Clean Energy Program ("CEP") incentives to new construction in Smart Growth areas of the State. The proposal was submitted to stakeholders for comment by the Office of Clean Energy ("OCE") in a notice issued September 27, 2011 (the "September 27 Notice").

Pursuant to Board of Public Utilities ("BPU") orders dated March 4, 2003 and April 3, 2006, the BPU adopted Smart Growth guidelines that generally limited CEP financial incentives to residential and non-residential customers in Smart Growth areas, with exceptions for replacement buildings, hospitals, military facilities and municipal owned buildings in areas not designated for Smart Growth. Currently, the following CEP programs have restrictions on incentives for areas not designated for Smart Growth:

- **ENERGY STAR Homes** offers tiered incentives for energy efficient new residential construction. Incentives are available in Smart Growth areas; also, affordable housing and gut renovation projects are eligible in areas not designated for Smart Growth. Incentives are based on attainment of Energy Star version 2.5/3.0 or on a sliding scale for HERS ratings for highly efficient construction. Base incentive levels per unit are greatest for single family homes, followed by townhomes, and then multi-family units.
- **Commercial and Industrial New Construction** offers incentives and technical support for prescriptive and custom measures in new construction projects within designated Smart Growth areas, or where the cost of a service extension may be allowed as provided for in N.J.A.C. 14:3-8.8.<sup>1</sup> The program has an incentive ceiling of the lesser of \$0.16/kWh and \$1.60/therm based on estimated annual savings, 50% of total installed project cost, or a buy down to a one-year payback. Incentives are not tied to the square footage of the construction project.
- **Pay for Performance New Construction** offers incentives for new commercial and industrial construction projects that achieve at least a 15% energy cost savings relative to buildings built to the current energy code. Eligible new construction projects must have at least 50,000 sq ft of conditioned space and be located in a Smart Growth area, with limited exceptions.

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<sup>1</sup> N.J.A.C. 14:3-8.1 et seq. addresses main extensions to provide regulated utility service. Note that the BPU is currently seeking comments on revisions to the main extension rules for Smart Growth areas. Rate Counsel will file separate comments addressing revisions to the main extension rules.

In the September 27 Notice, OCE proposed to eliminate any restrictions on CEP programs that now limit eligibility to new construction in Smart Growth areas.

Rate Counsel supports the extension of CEP program eligibility to areas not designated for Smart Growth. Since virtually all ratepayers pay the Societal Benefits Charge (“SBC”), customers should be eligible for SBC-funded CEP programs.

However, Rate Counsel has two concerns. First, the OCE should evaluate any change to energy efficiency programs from the standpoint of cost-effectiveness and effect on program participation and budgets. While it is likely that expansion of the programs to all areas of the state will not substantially impact the cost-effectiveness of the programs, OCE should conduct an analysis of the likely effects of proposed changes to the programs, such as the impact on program budgets.

Second, as stated in Rate Counsel’s comments on the 2011 Compliance Filings dated November 17, 2010, a program structure that gives higher incentives for lower square footage buildings is more consistent with State goals to cut overall energy use and overall greenhouse gas emissions. Moreover, such a program structure is more consistent with program goals, e.g. with ENERGY STAR Homes’ long-term objective of transforming the market to one in which a majority of residential new construction in the state is net zero-energy. Providing incentives outside of Smart Growth areas highlights the need for incentives that do not facilitate development of larger facility and house sizes, especially given that buildings in non-Smart Growth areas are less likely to have constraints in available land, tend to be larger and often consume more energy. Program incentive structures should be changed in a way to provide more incentives when developers build

smaller and more efficient facilities. Rate Counsel also recommends that OCE analyze the relationship between new construction incentives and building size.

### **Conclusion and Recommendations**

Rate Counsel supports the proposal to remove restrictions on incentives to areas not designated for Smart Growth. However, Rate Counsel's support is conditioned upon the following:

1. The OCE should present analyses on the likely impacts on program budgets as a result of the change;
2. The OCE should consider incentive structures that encourage developers to construct smaller, more efficient buildings, as well as more efficient larger building sizes; and
3. The OCE should analyze the relationship between new construction incentives and building size.



STATEMENT

## Comments on the Office of Clean Energy Proposed Changes To New Jersey's Clean Energy Program Smart Growth Policies

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(609) 393-1189 *Fax*  
[www.njfuture.org](http://www.njfuture.org)

Oct. 14, 2011

**Contact:** Chris Sturm, Senior Director of State Policy, 609-393-0008 ext. 114

New Jersey Future urges the Office of Clean Energy (OCE) to withdraw its proposal that the Board of Public Utilities modify its current policy of limiting the eligibility of projects outside of Smart Growth Areas for Clean Energy Program financial incentives. This proposal is inconsistent not only with the State Development and Redevelopment Plan, but likely with the Christie administration's forthcoming State Strategic Plan.

### **Smart Growth Policies Help the Economy, Environment**

The OCE proposal would reverse the well-established state policy of targeting financial incentives to smart-growth areas — places located near existing cities, towns and suburbs — and away from farmland and natural areas, as identified in New Jersey's State Development and Redevelopment Plan. This policy reflects the long-held preferences of New Jersey residents, according to a poll released this week by the Monmouth University Polling Institute. The poll found that nearly 70 percent of New Jersey residents support a coordinated, statewide plan to steer growth and development to existing population centers in order to preserve farming communities and open spaces. These findings are nearly identical to a poll conducted in 2002.

Encouraging home construction in smart-growth areas makes sense from the perspective of energy use. Residents in these areas typically drive less, since destinations are closer and people often have the option to use transit, walk or bike. Promoting development in smart-growth areas also helps spur economic growth and create jobs without harming clean water, farmland and other natural assets.

### **Recent Experience with Energy-Efficient Construction**

Data obtained from the Office of Clean Energy shows participation in the Energy Star Homes program both in and outside of smart-growth areas. Roughly 3,900 newly constructed housing units in smart-growth areas participated annually between 2008 and 2010. Outside of smart-growth areas, a growing number of housing units were also certified as compliant with Energy Star, from 272 in 2008 to 126 in 2009 to 770 in 2010 and 647 so far in 2011, even though no subsidy was provided. If meeting Energy Star standards in non-smart-growth areas is becoming more popular on its own, it begs the question: Why provide a subsidy, given that growth in those locations has negative consequences?

The BPU's energy-efficiency programs don't prevent people from developing land or living and working in the state's rural areas. But they have represented a commitment not to subsidize development that causes sprawl, increases traffic and gobbles up open space. Since ratepayers

foot the bill for these subsidies, the BPU has a responsibility to ensure that they will not be offered in areas where growth has other negative consequences.

#### **Policy Proposal Should Wait for State Strategic Plan Release**

The Christie administration is now putting the finishing touches on the State Strategic Plan, a plan intended to guide the state's economic and physical development, building upon the land-use vision articulated in the State Development and Redevelopment Plan. The State Strategic Plan is expected to call upon state agencies and entities like the BPU to align their programs, policies, rules and spending in support. If nothing else, the Office of Clean Energy should withdraw its proposal until it can be considered in light of the State Strategic Plan.

*New Jersey Future is a nonprofit, nonpartisan organization that brings together concerned citizens and leaders to promote responsible land-use policies. The organization employs original research, analysis and advocacy to build coalitions and drive land-use policies that help revitalize cities and towns, protect natural lands and farms, provide more transportation choices beyond cars, expand access to safe and affordable neighborhoods and fuel a prosperous economy.*



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October 14, 2011

Via E-mail to [publiccomments@njcleanenergy.com](mailto:publiccomments@njcleanenergy.com)

Office of Clean Energy  
Attn: Kristi Izzo, Secretary of the Board  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
Post Office Box 350  
Trenton, NJ 08625-0350

RE: Office of Clean Energy  
Proposed Changes to New Jersey's Clean Energy Program -  
Smart Growth Policies

Dear Secretary Izzo:

We represent United Communities, LLC ("UC") and offer the following comments in support of the New Jersey Office of Clean Energy's proposal to eliminate the Smart Growth requirement as a pre-condition to eligibility for New Jersey's Clean Energy Program incentives (the "Proposal"). Of particular interest to UC are the incentives related to OCE's Energy Star Homes Program. Participation in the Energy Star Program is, without question, extremely beneficial and in the public interest, considering the significant energy savings to be realized.

1. The Current BPU Smart Growth Policies Violate Centex

The Board of Public Utilities (the "Board"), in its policies regarding the New Jersey Energy Star Homes Program, limits eligibility for financial incentives and rebates to "Smart Growth" areas only and we contend that any existing Board policy that continues to mandate smart growth as a condition of eligibility to any program or incentive is not permissible under Centex Homes, 411 N.J. Super. 244 (AD, 2009). In Centex Homes, the Appellate Division invalidated provisions of the Board's Main Extension Rules that prohibited utilities from paying for or contributing to the cost of service extensions in areas not designated for growth, and remanded the matter to the Board. The Board did not appeal that decision and is in the process of promulgating new Regulations consistent with the ruling. Like the Main Extension Rules the

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Appellate Division invalidated, there is no Statute or Regulation that limits Energy Star Homes Rebate eligibility to Smart Growth areas.

The Centex Court specifically found that the State Planning Act and related Executive Orders cannot be considered “enabling legislation” to justify what amounts to the BPU making land use decisions. The Centex Court wrote that, “neither the BPU’s enabling Legislation nor the State Planning Act specify that the BPU is to integrate the plan into its regulations.” Id. The Court went on to find that “the language of the State Planning Act does not evince a legislative intent that the State Planning Act be integrated into the BPU’s non-discretionary legislative mandate to determine the allocation of costs for service extensions in designated areas of the State Planning Map. If the Legislature wishes to grant the BPU authority to take smart growth principles into account in ordering service extensions, it should explicitly say so, as it did by amending CAFRA.” Id.

As a result, OCE’s Proposal to eliminate the smart growth requirement as a pre-condition to incentives is a welcome policy shift and, in our view, would bring the Board into compliance with the principles underlying the Centex decision.

## 2. The Board’s Current Rule Misses Significant Opportunities to Conserve Energy

The current bright line rule that eliminates incentives based on a smart growth designation can miss important opportunities to encourage significant energy savings. For example, UC is engaged in the design, construction, maintenance and management of housing for members of the United States Military located on McGuire Air Force Base and Fort Dix under a long term agreement with the United States Air Force (“USAF”). UC was awarded a contract from the USAF to build and upgrade existing military family housing on McGuire Air Force Base and Fort Dix and will own and manage the units for 50 years. UC is in the process of building the housing units to Energy Star specifications.

This military housing project, when complete, will involve 2084 total residential units, involve building 1,635 new units and renovations of 449 units, a business center, two community centers and a warehouse (the “Project”). Jersey Central Power and Light (“JCP&L”) provides onsite electric power by an underground main extension at Fort Dix and will provide electricity to a master meter at a demarcation point outside of McGuire Air Force Base pursuant to USAF requirements.

All new homes in the Project include energy efficient features, water saving devices and appliances which are Energy Star rated. Although outside of a smart growth area, this Project is believed to be the largest Energy Star rated project in New Jersey.

The Project is consistent with smart growth principles in that the construction of housing on the existing military base constitutes compact development of multi-housing within close proximity to an employment center. In addition, although the proposed military housing will not



be located in an area designated for growth, the McGuire Air Force Base and Fort Dix joint military facility was built prior to the operational date of the Board's smart growth rules and has been deemed to be consistent with smart growth by the New Jersey Pinelands Commission. Building housing for military families off the base would be difficult considering the development restrictions in the Pinelands and would likely result in long commutes for military personnel. Therefore, constructing the housing to serve the joint military facility in an area designated for growth is not practical.

The Board's policy of eliminating incentives from non-Smart Growth areas could have had the effect of mandating a land use policy imposed by the Board that is contrary to a policy of the State of New Jersey and of the Pinelands Commission supporting the growth and development of the McGuire Air Force Base and Fort Dix Joint Military Facility. Although not fatal to the Project, the lack of incentives has made implementation of the Energy Star Homes Program more difficult and the lack of incentives has caused UC to re-allocate funding from portions of the Project aimed at providing additional amenities to benefit military families to construction of energy efficient units.

It is hoped that this illustration demonstrates where this "bright line" policy of excluding projects from incentives misses the target.

### 3. Societal Benefits Charges

In addition, it is our understanding that the societal benefits charge ("SBCs") portion of a utility bill funds, in part, OCE and the New Jersey's Clean Energy Program incentives. To the extent that SBCs serve to fund programs such as the Energy Star Homes Program, it is unfair and discriminatory to prevent projects that pay into the fund to be ineligible to receive incentives available in other parts of the State. In the case of the Project, UC funded approximately \$180,000.00 of SBCs in 2010 alone (and this amount will only increase at full build out), whereas the Project is, by operation of Board policy, ineligible for receipt of any incentives. Equity demands that the OCE implement the proposed changes to allow projects throughout the State in both Smart Growth and non-Smart Growth areas to be eligible for OCE incentives.

### 4. Consideration Should Be Given to Making the Change Retroactive

Finally, consideration should be given to making any change to permit incentives for projects outside of smart growth areas retroactive. While the Board may have concerns that making the Proposal retroactive could have the effect of opening up the floodgates, this is simply not the case. In the case of the Energy Star Homes Program, only units that have been inspected and certified in accordance with the Program's rules would be entitled to reimbursement and this would significantly limit or eliminate most opportunities to become eligible for the incentives. It is simply not possible to go back in time and allow inspection and certification for already constructed units. However, it would permit those few developers or owners that have otherwise

Office of Clean Energy  
October 14, 2011  
Page 4

fully participated in the program (other than being in a non-smart growth area), and that have received certifications for their Energy Star compliant units, entry into this worthwhile program.

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We thank you for the opportunity to provide comments in support of OCE's consideration of a recommendation to the Board that it eliminate policies that limit most NJCEP's incentives to new construction in smart growth areas of the State.

In the event that further information would be helpful, please contact me at your earliest convenience.

Very truly yours,



JOHN D. CRANMER

JDC/tpg

cc: Michael Haydinger  
Richard S. Mroz, Esquire

7219229v2