

COMMERCIAL AND INDUSTRIAL CUSTOMER SELF-DIRECTED INVESTMENT PILOT PROGRAM

Statement of Purpose

The purpose of this pilot program is to foster self-investment in energy efficiency, conservation, renewable energy, sustainability and combined heat and power projects while providing necessary financial relief to commercial and industrial utility customers. Pursuant to the pilot program, grants will be awarded to customers that satisfy the program's eligibility and program requirements ("Eligible Customers"), to invest in self-directed energy projects that are customized to meet the requirements of the customers' facilities, while advancing the State's energy efficiency, conservation, renewable energy and greenhouse gas reduction goals. The grants available to Eligible Customers will be determined on a case-by-case basis, and shall be based upon the customer's contribution to programs funded by the New Jersey Clean Energy Program ("NJCEP") in the calendar year preceding the commencement of this pilot program. The Board may elect to cap the size of the grant available to an Eligible Customer, utilizing a formula that is based upon the customer's contribution to the NJCEP.

The Energy Master Plan recognizes that commercial and industrial energy efficiency and conservation projects consistently achieve the highest returns on investment and most significant energy efficiency and conservation gains, and corresponding reductions of greenhouse gas emissions, of all programs currently sponsored by the NJCEP. Such projects also improve the financial stability and competitiveness of New Jersey's businesses in the local, regional, national and international markets, and thereby foster economic development and business and job retention and expansion consistent with the important economic growth policies of this State. Therefore, permitting Eligible Customers to invest in Board-approved self-directed energy projects advances several core policy objectives of the Board and State.

1) Establishment of C&I Customer Self-Directed Investment Pilot Program; Customer Eligibility

The Board shall establish a grant program on a pilot basis to enable qualified commercial and industrial companies to self-invest in cost-effective energy efficiency, conservation, renewable energy, sustainability and combined heat and power projects approved by the Board ("Self-Directed Investment Pilot Program" or "Program"). Approved commercial and industrial customer self-directed investments shall be funded by the NJCEP budget. The aggregate value of the grants made available to qualified commercial and industrial customers shall be determined by the Board, but shall not be less than \$20 million.

To be eligible to participate in the Self-Directed Investment Pilot Program, a customer must qualify either under the minimum usage standard established for an electric customer or a natural gas customer, but shall not be required to qualify under both

standards. If a customer is deemed eligible under either the electric or natural gas usage standard, the customer may obtain a grant based upon contributions made by the customer to the NJCEP for both electric and natural gas purchases.

In order to qualify as an eligible electric customer, in the year prior to the establishment of the Program, the customer must have had an annual usage of at least 50 million kilowatt hours from all sources derived, including electric generated by combined heat and power facilities, at the customer location(s) to be encompassed within the Program, either individually or on an aggregated basis. A customer with multiple meters that measure usage at one or more locations may aggregate the loads at such locations to qualify as an Eligible Customer. Each such metered location must have had a peak demand of greater than 200 kilowatts in the year prior to the establishment of the Program.

In order to qualify as an eligible natural gas customer, in the year prior to the establishment of the Program, the customer must have had annual usage of at least 250,000 dekatherms, including volumes consumed by customer owned or hosted combined heat and power facilities, at the location(s) to be encompassed within the Program, either individually or on an aggregated basis. A customer with multiple meters that measure usage at one or more locations may aggregate the loads at such locations to qualify as an Eligible Customer. Each such metered location must have annual usage of greater than 25,000 dekatherms of natural gas in the year prior to the establishment of the Program.

The Project Manager and Board shall have the discretion to deviate from these threshold usage levels to include smaller projects that would incorporate technologically innovative or novel energy solutions or retain or create a significant number of new jobs.

The term “Eligible Customer” means a business entity that satisfies all requirements necessary to receive a grant pursuant to the Program. In order to promote maximum participation by as many commercial and industrial customers as possible, a company that is affiliated with an Eligible Customer may participate in the Program only if the affiliated company had aggregate annual electric usage that shall not exceed 6 million kilowatt hours, or aggregate natural gas usage that shall not exceed 7,500 dekatherms, in the year prior to the establishment of the Program. Companies deemed to be “affiliated” with an Eligible Customer shall include all parent, subsidiary and affiliated companies, and all other companies under common ownership or control, directly or indirectly. An affiliated company that satisfies the usage thresholds set forth in this paragraph shall be eligible to participate in the Program and shall be permitted to aggregate its load with an affiliated Eligible Customer, either for purposes of satisfying program eligibility thresholds or for sharing any grant that is issued as part of the Program..

2) Approval Process and Standards for Self-Directed Investment Program

The Board shall establish the process by which commercial and industrial energy users shall be qualified as Eligible Customers and authorized to implement self-directed investment projects. As appropriate, the Board may establish general criteria and standards, including application requirements and monitoring and verification protocols, to be satisfied by an applicant seeking approval of a Self-Directed Investment Program and to assure that projects developed pursuant to the Program are completed and properly implemented. The investment, metering and verification criteria adopted by the Board shall be consistent with the criteria utilized by an Eligible Customer for its own internal investment decisions, and shall foster attainment of the State's economic development, energy efficiency, energy conservation and clean energy goals.

3) Self-Investment Grant

Pursuant to the Self-Directed Investment Pilot Program, an Eligible Customer shall be afforded a grant to fund energy efficiency, conservation, sustainability and renewable energy measures, and combined heat and power projects, that are generally consistent with the types of measures and projects currently funded by the NJCEP. An Eligible Customer may acquire and install any such measures directly or through State-approved energy service or energy optimization companies.

The size of the self-investment grant to each Eligible Customer shall be determined on a case-by-case basis, based upon the Eligible Customer's contribution, in the year prior to the effective date of the Program, towards that portion of the NJCEP budget devoted to funding energy efficiency, conservation, renewables, sustainability, and combined heat and power projects. The grant may be used to fund up to 75% of the total cost of the energy measures installed by the Eligible Customer pursuant to the Program.

Except as set forth below, an Eligible Customer shall not be eligible to participate in, nor receive financial benefits from any other NJCEP program during the period in which the Eligible Customer participates in the Self-Directed Investment Pilot Program. An Eligible Customer shall be eligible to receive all financial incentives approved by, among others, the Board, the New Jersey Economic Development Authority and the Federal Government to foster the development of combined heat and power projects. Eligible Customers shall be eligible to receive all available non-NJCEP-related State and Federal tax and other financial incentives and benefits, including American Recovery and Reinvestment Act funds and the environmental attributes associated with approved energy efficiency, conservation, renewable energy, sustainability, and combined heat and power projects. However, the combined incentives and benefits payable under all such programs shall not exceed 75% of an Eligible Customer's total cost of all projects developed pursuant to the Self-Directed Investment Pilot Program. Any facility owned by an Eligible Customer that is not included as part of a self-directed investment plan pursuant to the Program shall be eligible to participate in, and receive financial benefits

from other NJCEP programs during the period in which the Eligible Customer participates in the Program.

Grants shall be made available on a first come, first served basis to Eligible Customers that have submitted properly completed applications to participate in the Program. The grant shall be awarded in full upon Board approval and shall not be made contingent upon the performance levels or efficiencies actually achieved by approved projects or any similar metric. All Eligible Customers that receive grants shall certify that the grant money shall be used only for the development of the projects approved by the Board as part of the Program. The Board may conduct reasonable audits to assure the proper implementation of the projects and the accuracy of the data provided by Eligible Customers.

All projects funded pursuant to the Self-Directed Investment Pilot Program should be completed within three years of the Board's approval of the self-investment plan. Any portion of the grant that is not expended within the three year time frame may continue to be allocated to the customer upon a showing of good cause, including an analysis of why the project was not completed within the three year time period and an updated projected completion date, the presentation of an alternative plan to invest in alternative energy efficiency and other measures, or other proposal acceptable to the Program Manager and Board. In the absence of such a showing of good cause, any remaining grant money that is not spent by an Eligible Customer during the three year time period shall revert back to the Board to be utilized to fund C&I programs generally.

4) Appointment and Duties of Self-Directed Investment Pilot Program Manager

The Board shall designate a qualified individual or entity to serve as Self-Directed Investment Pilot Program Manager. The Program Manager shall be responsible for determinations of customer eligibility to participate in the Self-Directed Investment Pilot Program, for the expedited review of proposals received from customer applicants to participate in the Program, to advise and make approval recommendations to the Board with regard to such customer proposals and, if necessary, to serve as intermediary with the electric and natural gas utilities with regard to the implementation of the Program and to address any utility-related issues that may arise regarding approved customer projects.

The Program Manager shall make recommendations to the Board regarding customer project proposals and report to the Board regarding, among other things, the eligibility of customers to participate in the Program, the types of projects approved for development, the amount of the proposed grant, the reductions in electric and natural gas usage, peak demand and greenhouse gas emissions projected to be achieved, and the costs to achieve these results.

The Program Manager shall file annual reports with the Board summarizing the projects authorized under the Self-Directed Investment Pilot Program. The annual reports shall

provide an accounting of the grants provided, the energy savings and efficiencies projected to be achieved by each Eligible Customer and by the Program generally, and the administration expenses of the Program Manager. The Program Manager shall also make recommendations regarding changes to the Program and how it may be made permanent.

5) Preparation of Customer Self-Directed Investment Pilot Program Proposals

Customers that elect to participate in the Self-Directed Investment Pilot Program shall be responsible for the preparation of a detailed self-directed investment plan (“Plan”) that shall be reviewed by the Program Manager and approved by the Board. The Plan shall establish the customer’s eligibility to participate in the Program, set forth the total Societal Benefits Charge (“SBC”) paid by the customer for electric and natural gas service in the preceding year, detail the energy measures and projects to be implemented as part of the Plan, include a cost-benefit analysis for the measures and projects, identify the criteria generally utilized by the customer for internal corporate investment decisions, and establish an incremental energy savings goal. The Plan may also include a renewables and combined heat and power component at the customer’s election. The Plan shall provide sufficient information for the Program Manager to evaluate the customer’s eligibility to participate in the Program, the merits of the projects presented as part of the Plan, estimated energy savings, and the costs to achieve those benefits.

In order to be eligible for inclusion in a Plan, energy efficiency measures, individually or collectively, shall satisfy the cost-benefit or other criteria or measures, including payback period, utilized by the customer for its internal corporate investment decisions. Energy efficiency measures and incremental improvements capable of delivering demonstrable energy savings from energy and system optimization initiatives shall also be eligible for inclusion in a customer Plan. The Plan shall demonstrate to the Program Manager that the expenditures proposed to be made pursuant to the Plan are cost-effective, will result in incremental energy savings and efficiencies, and that the energy measures proposed are reasonably calculated to produce the energy savings and other benefits identified in the Plan.

The Office of Clean Energy also intends to assess the portfolio of projects proposed by an Eligible Customer through use of, among other tools, the “Total Resource Cost Test” (the “Test”), as developed by the Rutgers Center for Energy, Economic and Environmental Policy. Rutgers applies the Test in an effort to estimate the overall benefits of a program to society and to measure the net costs and benefits of a program on participating and non-participating customers. The benefits measured by Rutgers include avoided supply costs and reduction in transmission, distribution, generation and capacity costs, which are valued at marginal cost for the periods in which there is a load reduction. The costs measured by Rutgers include program costs, plus any increase in supply costs for periods in which load is increased.

Information required to be submitted to the Program Manager and Board regarding a proposed Plan shall include all information necessary to support the customer's eligibility to participate in the Program and the benefits of the Plan. The information provided shall include customer usage data and SBC payment history and, depending on the nature of the Plan presented, should include a detailed description of all measures and improvements proposed to be implemented, projected incremental efficiencies and energy savings, plans, drawings, payback calculations, usage information, as-built information, estimates, expense itemizations, information pertaining to proposed customer contributions, financing arrangements, engineering, auditing and consulting services, internal corporate investment evaluation criteria and other data and information deemed necessary to make determinations regarding customer and Plan eligibility and the expenses deemed eligible for payment by a grant issued pursuant to the Program. Expenses deemed eligible under the Program shall include, but not be limited to, all actual expenses reasonably incurred by an Eligible Customer in connection with the development and implementation of the Plan, equipment costs and the construction and installation of energy measures approved as part of the Plan. A customer shall provide any further information that is reasonably requested by the Program Manager or Board.

The Program Manager shall review each Plan submitted by a customer and make appropriate recommendations to the Board within 60 days of receipt of a Plan that is determined to be complete. Projects shall be considered to be qualifying under the Program if they are reasonably determined to satisfy the customer's internal investment criteria and projected energy savings and the Test, assuming the project is installed and completed in conformity with the Plan and is operated as contemplated.

The Program Manager's recommendations to the Board shall also be provided to the customer, and the customer shall be afforded an opportunity to provide comments to the Board regarding the recommendations made by the Program Manager. Customer comments shall be provided to the Board and Program Manager within 30 days of receipt of the Program Manager's recommendations. The Board shall decide whether to approve, disapprove or modify a customer Plan within 60 days of receipt of the recommendations of the Program Manager.

To the extent that a customer deems information submitted to the Program Manager and Board pursuant to the Self-Directed Investment Pilot Program to contain trade secrets, or proprietary commercial or financial information, the customer may assert a claim of confidentiality with regard to such information and request that the information be deemed to be exempt from disclosure pursuant to the Open Public Records Act. All customers seeking relief under this paragraph should provide the Board with substantiation of the claim of confidentiality in accordance with N.J.A.C. 14:1-1-12.8 and shall otherwise comply with the procedures set forth in N.J.A.C. 14:1-1-12.1 et seq.

All Program Manager administrative costs and other costs associated with the Program shall be included within and paid from the NJCEP budget. An Eligible Customer shall not be assessed a separate fee for participating in the Program.

An Eligible Customer shall not be penalized if an eligible project that is implemented in a manner consistent with an approved Plan does not achieve the efficiencies and savings that were projected in the Plan.