MEMORANDUM

To: Energy Efficiency Committee, Renewable Energy committee, NJCEP Marketing Committee, Clean Energy Council, NJCEP stakeholders, and other interested parties

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Subj: NJCEP Transition White Paper for Stakeholder Discussion

Date: November 4, 2010

I. Summary

This paper is BPU staff's preliminary and conceptual position for stakeholder discussion of New Jersey's Clean Energy Program (NJCEP) transition. This document should be reviewed and evaluated in the context of the current 2010 NJCEP budget, the proposed 2011 NJCEP budget, the 2008 through 2012 NJCEP funding level, and the revised Energy Master Plan.

The position paper was developed with input from AEG, the Program Coordinator; the Residential and Renewable Energy Market Manager, Honeywell (HW), and their subcontractors, CSG and VEIC; the Commercial and Industrial Market manager, TRC; and the seven natural gas and electric utilities.

This position paper follows BPU staff stakeholder meetings, which included discussion of the data analysis of the Energy Master Plan (EMP). The EMP will help set the direction for the NJCEP transition. The NJCEP will be one tool to help implement the EMP goals. The 2010 preliminary data updating the 2008 EMP and average residential utility rates are available at www.state.nj.us/emp/doc/ .

At the end of each section will be a question relating to the specific issue and the transition. In addition, each of the detailed options will have a list of questions Board staff is suggesting to obtain input and assistance in developing a recommendation to the Board.

Q. How should the NJCEP be used to implement the goals of the EMP?

1. Overall Administrative and Management Options

This document lists the four (4) options currently under discussion in connection with the transition of the administration of the NJCEP and the NJCEP programs. They are as follows:

1. Transition to the Utilities;
2. transition to a state agency;
3. transition to a trade organization, not for profit or for profit entity; and
4. transition to an energy efficiency utility.

This position paper discusses each option related to overall management, rate issues, and regulatory issues, as well as questions that should be considered with each option. The paper lists the general timeframes for each option and the costs associated with the options. It also lists the cost issues related to the transition, and the development of 2011 programs and budgets. Attached is a more detailed discussion of each of these options. Also available on the NJCEP website is the 2003 Report of the Administration and Fund Management of the NJCEP that formed the basis of the initial Board decision regarding the

NJCEP administration and management, as well as the Order directing this transition of the NJCEP administration and fund management. These documents are at http://www.njcleanenergy.com/main/public-reports-and-library/home,

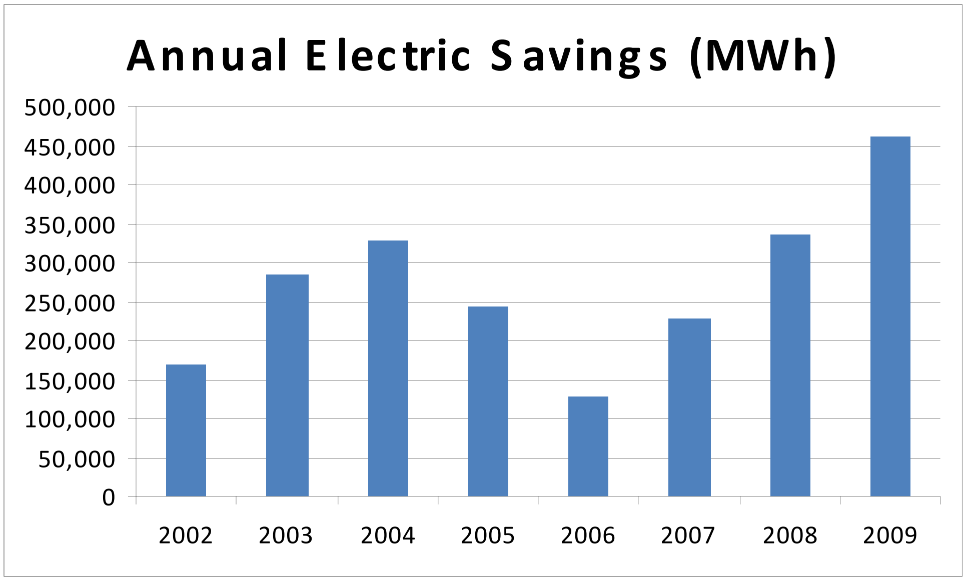
The program transition issues relate to the change from rebates to a revolving loan structure or market based incentive. This includes, which programs should or should not continue as rebate programs, which programs should transition to revolving loans or financing programs, and which should function in the market without incentives. A part of this discussion is the time frame for this program transition.

Q. Do the 4 choices, above, cover all administrative options? Are there other administrative options to consider? Which of the options, in your opinion, works best for you, and why? Which current NJCEP programs should, or should not continue as rebate programs? Which current NJCEP programs should transition to revolving loans or financing programs? Which current NJCEP programs should function in the marketplace, without incentives? What programs, not currently part of the NJCEP program, should be included in the program transition? What is the time frame for this program transition?

2. Transition Planning

One issue, highlighted in the chart below, is that a transition can result in a significant drop in participation. Therefore, planning will be key to an effective transition.

Programs may not be the same before, during, or after the transition, but it is the rate of participation and the overall communication and marketing that will facilitate an effective transition. NJBPU, through the USDOE Technical Assistance Program (TAP), has acquired the services of experts in the administration and management of Clean Energy Programs.



> **Q. What should the overall timeframe be for transition planning and the transition? How should the planning inform the transition?**

3. Program Results

The NJCEP has produced well documented positive results. Energy savings, together with Clean Energy generation are approximately one half percent of total usage. The detailed data containing program results for the 2001 through 2009 program years, are available on the Clean Energy Program website, at http://www.njcleanenergy.com/main/public-reports-and-library/home.

Q. Given the NJCEP results from 2001 through 2009, which programs should continue without modification, with modification, be reduced, eliminated or expanded? Should all customer classes participate directly?

4. Objectives

The Objectives to consider as a guide in the discussion regarding the future structure of the NJCEP and the overall transition are:

1. Advancing the Governor's goal of enhancing economic development and job creation;
2. supporting the revised EMP goals;
3. transitioning from rebate-based incentive programs to programs that are more market-based, including public and/or private financing programs, and returning the funds to the administrator over time;
4. reducing the costs of administration of the NJCEP and utility managed EE and RE programs;
5. consistent, but not necessarily the same programs across the state; and
6. benefiting and supporting all ratepayer classes, directly or indirectly.

Q. Given the above objectives, what current programs should continue without modification, with modification, be reduced, eliminated or expanded?

5. Program Concepts

The OCE recommends that discussions center on three major program concepts as follows:

1. Elimination or phasing out of one-time consumer product rebate programs;
2. replacement of one-time rebate programs, including interest rate buy downs, with revolving loan financing programs for specific market sectors; and
3. establishment of competitively bid program(s) open to trade organizations, public organizations, or other entities for delivery in specific energy efficiency and renewable energy markets.

Q. Given the above program concepts what current programs should continue without modification, with modification, be reduced, eliminated or expanded?

6. Societal Benefits Charge (SBC) Funding Levels and Rate Issues

In 2008, the Board approved a four year funding program for the NJCEP that established a funding level of $319.5M for CY 2011. This increases to $379.25M in CY 2012. The December 2008 Funding Level Order, which set forth the Board's findings and directives for 2009 through 2012, is available on the NJCEP website, at http://www.njcleanenergy.com/main/public-reports-and-library/home. If NJCEP funding is to continue beyond 2012, the Board would need to initiate a proceeding to determine if

SBC funding will continue for the next four years, 2013 through 2017, total funding levels, and the customer rate impact.

The New Jersey state approved FY 2011 budget appropriated CEP funding for state energy costs ($42M), and state facility EE and RE upgrades ($10M). Further, recently enacted legislation allocates $25M of the funding for low to middle income energy assistance grants for FY 2011.

The OCE will monitor budget developments to determine the ultimate level of funding that is available in 2011, for new programs. The OCE staff's straw proposal for the 2011 NJCEP Budget and Programs is available for review and comment at http://www.njcleanenergy.com/main/public-reports-and-library/home.

Q. Should SBC funding continue at its current level? Should the SBC be eliminated and, if so, in what time frame? If it is eliminated, what type of structure should replace the SBC, if any? In what time frame?

7. Utility EE and Solar RGGI Programs and Funding Source

N.J.S.A. 48:3-87 (RGGI amendments to EDECA) allows the electric and gas utilities to file for developing and implementing energy efficiency and renewable energy programs on their side, or the customer's side of the meter. These amendments allow the utilities to earn a return on their investment, either through a specific rate, the SBC, or other rate mechanism. In 2009 the electric and gas utilities were directed to file EE economic stimulus programs (E3) and solar financing programs. Public Service Electric & Gas (PSE&G), New Jersey Natural Gas (NJNG), South Jersey Gas (SJG), Elizabethtown Gas (E-town), and Rockland Electric Company (RECo) were approved to implement E3 programs that supplemented or complimented the NJCEP. The E3 programs have total funding of $230M through 2010. NJNG and SJG were also approved, prior to the RGGI amendments, to implement Conservation Incentive Programs (CIP) through 2013. JCPL, ACE and RECo were approved to implement a solar financing program through 2013, and PSE&G was approved to operate a solar loan program and a large scale solar development program. E3 performance reports, including the current budget, expenditures and commitments by each utility, by program, are available at http://www.njcleanenergy.com/main/public-reports-and-library/home. The solar programs were not required to report monthly; they report annually to the Board.

NJNG received recently approval to increase and extend its E3 funding. The Board deferred new programs until after the transition. This approval put the parties on notice that the Board may terminate or revise the NJNR E3 program depending upon the Board's decision on the NJCEP transition. PSE&G, SJG, and E-town have requested to extend the timeframe for their E3 programs, without additional funding, through the transition. This same provision will be part of the E3 program extensions. In addition, PSE&G is in the process of modifying its solar loan program, and JCPL, ACE, and RECo are also in the process of modifying their solar financing programs. Approvals for these modifications will provide that the Board may terminate or revise these programs, depending upon the Board's decision on the NJCEP transition.

Q. Should the Utility EE and Solar programs continue in place of the NJBPU SBC funded Clean Energy Programs, complimentary to NJCEP, separate and apart from the NJCEP, or as an enhancement to the NJCEP? Given the results of the Utility EE and solar programs, what current programs should be continued without modification, with modification, be reduced, eliminated or expanded?

8. Federal EE and RE Programs and Funding

NJBPU also has received federal American Recovery and Reinvestment Act (ARRA) funds available through the US Department of Energy (USDOE). These ARRA funds are available through April 2012 for EE and RE projects. This includes $73,643,000 from State Energy Plan funds (SEP), $14,400,700 from Energy Efficiency Conservation Block Grants (EECBG), and $8,333,000 for State Energy Efficiency Appliance Rebate Programs (SEEARP). The majority of these funds are already obligated, with approximately $4M of rebates available in NJCEP from the SEEARP funds, and $16M from SEP for NJCEP rebates in Home Performance with Energy Star, Direct Install, Local Government Energy Audits, and Pay for Performance. However, given USDOE's request to obligate 100% of the funds by Sept 30, 2010, and to accelerate actual spending, the BPU anticipates spending the majority of these funds by the end of this year. A detailed description of USDOE ARRA funding, and USDOE and Board approved ARRA programs, the budgets, participation rates, expenditures, and commitments are available at http://www.njcleanenergy.com/main/public-reports-and-library/home.

Q. How should the transition be coordinated with the current ARRA funded programs?

9. NJCEP 2011 Budget and Programs

The 2011 budget needs to be developed with a view toward the NJCEP transition, and the finalization of the EMP. However, the EMP is not finalized, and the NJCEP budget year is beginning. This means that the 2011 NJCEP budget and programs need to be flexible to allow for change, if and when needed.

Copies of the NJCEP year-to-date performance reporting, as well as Treasury fiscal reports and prior years' quarterly performance and annual reports are available at http://www.njcleanenergy.com/main/public-reports-and-library/home. This information informs the discussion about transition of the NJCEP.

At the August 2010 EE and RE Committee meetings, OCE staff began the 2011 NJCEP budget process by soliciting comments and discussion of the current 2010 NJCEP budget, expenditures and commitments. Comments and discussion of the projected expenditures and commitments through the end of the year were also sought. The discussion continued through the September and October committee meetings, and will continue through November. The OCE staff straw 2011 NJCEP budget, the contract modifications, and the draft compliance filing are available at http://www.njcleanenergy.com/main/public-reports-and-library/home.

The draft compliance filing includes the detailed budgets for all residential EE programs, C&I EE programs, RE programs, and programs managed by EDA and OCE, by the following budget categories: General administration; rebates/incentives; rebate application processing; training; marketing; QA/QC inspections; call center; dispute resolution; and evaluation. A public hearing is set for November 10, 2010, in Committee Room 11 at the State House Annex, 125 W. State Street, Trenton, NJ 08608, from 2:00PM to 5:00PM. Comments may be submitted in writing to oce@bpu.state.nj.us, though November 17, 2010, with the subject heading 2011 NJCEP Budget. The Board will consider staff recommendations for the 2011 NJCEP Budget and Programs in December 2010. This public hearing will also start the discussion of the NJCEP transition. Comments on this paper may be submitted in writing to oce@bpu.state.nj.us, through November 26, 2010, with the subject heading NJCEP transition. Action by the Board on the NJCEP transition will be in early 2011.

Q. Should there be a continuation of the programs in the current OCE staff straw proposal for the 2011 NJCEP budget? If not, what structure should replace the current programs? Is there a specific program in the residential EE market that should be continued, reduced, increased or eliminated, and why or why not? Is there a specific program in the commercial and industrial EE market that should be continued, reduced, increased or eliminated, and why or why not? Is there a specific program in the RE market that should be continued, reduced, increased or eliminated, and why or why not? In light of the objectives of the transition, and the transition program concepts listed

above, what current NJCEP EE or RE programs should be transitioned to a revolving loan or financing program, and when should this occur?

10. Program Management

The contracts for Honeywell to manage the NJCEP residential EE program and the NJCEP renewable programs, and TRC to manage the NJCEP C&I EE programs expire on January 19, 2011. Currently, the BPU staff is pursuing, through Treasury, a 6-month extension of these contracts. A decision, within this 6 month contract extension, will need to be made regarding who will administer and/or manage the NJCEP programs that continue after that date.

Several options exist regarding potential entities to deliver programs in 2011. For certain programs, having a single statewide plan is desirable, and may result in the lowest overall cost. The following are options for procuring the implementation contractors:

1. The State, as the NJCEP administrator, could procure these services through a competitive bid process;
2. all the gas and electric utilities, as a collaborative or a subgroup of the electric and gas utilities for a statewide program, could procure these services competitively;
3. a third party EE and RE administrator, such as a not-for-profit that was procured competitively by the state, could do so through sub-contractors; and
4. an EE and/or RE Utility, that is regulated by the Board as a utility, could procure these services separately, if they had separate procurement authority.

The OCE is reviewing programs in other states that use a competitive process for the delivery of energy savings and renewable energy. Staff is developing a draft Scope of Work (SOW) for both a competitive solicitation for NJCEP market sectors, and a re-bid of NJCEP management statewide. BPU has and will continue to meet with Treasury to finalize and issue these solicitations, if that is part of the transition decision.

The SOW will include the following:

1. What markets/types of projects should be targeted;
2. who will manage the procurement, and enter into contracts with winning bidders;
3. who will manage the contracts, and ensure the delivery of savings;
4. how will trade groups allocate funds to members' projects;
5. what are the standards for eligibility measures and protections against fraud; and
6. how will the State ensure that they are getting savings and not paying for maintenance, or projects that would have happened without support?

Q. Are these the right options for implementation contractors? Are there additional options to consider? Which option would deliver the most savings or generation at the lowest cost to rate payers?

11. Programs

A number of factors will impact the effectiveness of EE/RE programs during, and as a part of the transition decisions. Starting and stopping programs can create a barrier to contractors and customers. Therefore, it is important to provide adequate notice of the program transition. Also, consistency is important; having different programs and different incentives in different utility service territories creates market confusion.

As summarized in the 2011 straw budget, the draft compliance filing, and the contract modifications, a number of the consumer rebate programs can be eliminated in 2011 without impacting significantly the marketplace, and still reduce overhead and administrative costs. Rebates for central air conditioners, consumer appliances such as washers, dehumidifiers and room air conditioners, and many C&I rebates can be eliminated. Rebates for renewable energy systems can also be eliminated. The residential new construction program can be eliminated or significantly reduced in scope, given new energy building codes. Alternatively, upstream programs where mangers work with manufacturers, distributors and retailers can offer a viable alternative to consumer rebates.

Q. Which current NJCEP programs should or should not continue as rebate programs? Which current NJCEP programs should transition to revolving loans or financing programs? Which current NJCEP programs should function in the market, without incentives? What programs, not currently part of the NJCEP program, should be included in the program transition? What is the timeframe for this program transition?

ARRA and Legacy Programs

While the ARRA funds must be spend by April 2012, many of the New Jersey ARRA programs are tied to the NJCEP programs. For example, the Warm Advantage and Cool Advantage programs were expanded to include oil and propane heat customers and customers of municipal utilities and rural electric coops (non-IOUs) with the incentives paid to these customers with ARRA funds. If a part of the Warm Advantage and Cool Advantage program is discontinued, a new program for utilizing these ARRA funds would need to be implemented. This could be a line item shift to another NJCEP or another ARRA program. Also, several programs will have rebate commitments for projects that may be completed in 2011 or 2012. The Board will need a mechanism for processing final applications, performing inspections, and paying rebates to these projects.

Q. What option for transition of the NJCEP administration and programs works best to address the federal ARRA programs and the legacy issues in the transition?

Next Steps

1. Public comments on Staff's position paper on the Transition.
2. Determine which statewide programs should continue in 2011 and the 2011 budget level of funding needed to implement the programs as well as the 2012 funding level.
3. Develop recommendation on transition.
4. Develop guidance on if and how the competitive solicitation/grant program will operate.

5. Determine who will manage the statewide programs and grant programs including ARRA programs and NJCEP commitments.

These efforts will need to be coordinated with the EMP proceedings.

Summary of 2011 Program Changes Discussion Document

Energy Efficiency Programs

Program	Proposed Program Change [3]	Estimated Administrative Cost Reductions [2]	Potential Program Manager
Residential EE			
HVAC - Electric & Gas	Consider elimination of central air conditioning and solar hot water rebates; develop upstream incentives as an alternative. Continue heating system and hot water heater rebates.	$2 M	TBD [1]
New Construction Energy Star Homes	Eliminate rebates to builders and replace with rebates to customers buying EStar homes. Significantly simplify application process. We will need an entity to process final applications for previous commitments.	$2 million 1st year $4.5 M 2nd year	TBD
Energy Efficient Products	Eliminate all consumer rebates. Develop upstream incentives as an alternative.	$1 M	TBD
Home Performance with Energy Star	Continue program but explore potential for more efficient delivery mechanisms.	TBD	TBD
Community Partners Initiative	Continue program but may be a separate competitive bid for Local Governments	$500,000	TBD
Comfort Partners	Continue but explore potential for more efficient delivery mechanism or reduced budget	TBD	TBD
Commercial and Industrial EE Programs including not for profits, local governments and institutions			
New Construction-Retrofit	Continue but consider moving from product based to market sector based incentives.	$1 M	TBD
Pay-for-Performance/ P4P New Construction	Develop new program that targets the State's largest customers. For other customers continue but consider moving from product based to market sector based incentives and coordinate with potential EDA financing program.	TBD	TBD
CHP	Determine whether NJCEP funding will be used for CHP incentives.	TBD	TBD
Local Government Energy Audit	Continue with support for implementation of recommended measures but consider more efficient delivery mechanisms.	$1 M	TBD
Direct Install	Develop new program that targets local governments. For the other customers continue with potential increase in efficiency.	TBD	TBD
TEACH	Discontinue	$1 M	NA
Marketing	Marketing provided by program managers	$1 M	TBD
Total EE		**$9.5 M 1st year $12 M 2nd year**	

Renewable Energy Programs

Program	Proposed Program Change [3]	Estimated Administrative Cost Reductions [2]	Program Manager
Customer On-Site Renewable Energy	Program closed to new applicants. We will need an entity to process applications for previous commitments.	NA	TBD [1] or Staff
Clean Power Choice	Transition to voluntary market	$100,000	NA
Offshore Wind	Board staff will continue to manage applications for previous commitments.	NA	Staff
Renewable Energy Program: Grid Connected (Formerly REDI)	Explore transition to a competitive market based on REC phase away from grants. Board staff will continue to manage applications for previous commitments.	TBD	Staff
Renewable Energy Incentive Program	Consider discontinuing solar rebates in 2011 and determining what changes to utility/SREC programs may be required to continue market momentum. Continue rebates for small wind and biomass and consider phased transition to competitive market based on REC.	$2 M 1st year $4 M 2nd year	TBD or Staff
SRECs	We will need any entity to review applications and issue NJ SREC certification numbers to provide to PJM GATS and to perform inspections if required.	TBD	TBD or Staff
RE Marketing	Discontinue	$400,000	TBD
RE Project Grants and Financing	Program closed to new applicants. EDA to continue managing existing commitments.	NA	EDA
EDA Renewable Energy Business Venture Financing/REED	Program closed to new applicants. EDA to continue managing existing commitments.	NA	EDA
EDA Clean Energy Manufacturing	Continue	NA	EDA
CST Edison Innovation Clean Energy Fund	Explore alternatives with EDA. We will need an entity to process final applications for previous commitments.	TBD	EDA
Total RE		**$2.5 M 1st year $4.5 M 2nd year**	
Total EE + RE		**$12 M 1st year $16.5 2nd year**	

1. TBD indicates that the program manager will be a function of the administrative structure approved by the Board. This could involve the Board issuing a competitive solicitation or developing an alternative regulatory model or the NJBPU staff could manage the program or market segment.
2. Estimated reductions are very rough estimates of potential savings that can be achieved by implementing suggested program changes.
3. Individual programs or market segments (ie local governments, large energy users, products, institutions could be bid out separately of managed by the state separately from the overall management.

Current Proposed Allocation of 2011 NJCEP Funding

Does not include carryover of committed or unspent 2010 budget or approved utility programs

	$319,500,000
Funding appropriated ($42 M appropriated for the State's energy bills , $10 M for state EE/RE projects TBD and $25 M for NJ Shares or equivalent entity will be funded from NJCEP Trust Fund)	$77,000,000
Residential Programs including low-income	$63,350,000
Commercial Programs	$77,000,000
OCE Oversight	$5,150,000
Renewable Energy Programs	$5,000,000
Competitive Solicitation for Programs or Market Segments	$30,000,000
EDA	$38,000,000
Total	$319,500,000

DRAFT FOR DISCUSSION PURPOSES ONLY

Transition of NJCEP Administration to the Utilities

The OCE suggests the following key principles be used to guide the discussions for considering an NJCEP transition to the utilities:

1. How does this transition option to the Utilities advance the goals of the EMP and the Governor's goals for economic development and jobs creation;
2. How does this option assist in the transition from a rebate based system to a revolving loan or financing system;
3. Will this option result in lower or the lowest administrative cost;
4. Will this option result in the increased energy savings or clean energy generation; and
5. Will this option result in benefits to all ratepayers?

1. Utility Administration

a. Are all utilities to be part of this administration?
b. Is this for EE only or also RE, CHP, demand response?
c. What programs will continue and what new programs/delivery concepts will be implemented in 2011?
d. How would the Utilities coordinating program design and incentives among the utilities?
e. Should there be consistent incentives across New Jersey or just consistent incentives "where appropriate"?
f. Should the utilities have flexibility to design programs and incentives specific to their service territories?
g. Should the utilities be required to minimize administrative costs by sharing purchasing and other costs that can be provided centrally rather than on an individual utility basis or that can be shifted to market participants?

2. Rate Issues

a. The Board has already approved EE an RE funding levels for 2011 for each utility so should this funding level be utilized and eliminate any EE or RE RGGI charges for all programs or should the SBC be eliminated and just utilize the RE and EE RGGI charges?
b. Should this funding be based on traditional utility accounting/deferred accounting?
c. Could individual utilities not part of the overall NJCEP administration petition the Board to do more EE or RE including CHP and demand response within there service area but use the 2011 and 2012 funding level as a base level?
d. How would the utilities coordinate with other programs the Board may want to fund as economic development programs such as the EDA or CST programs?

e. Should explore the potential for bringing each utility’s programs under one umbrella with the potential for rate reductions?

3. Regulatory Issues

a. Should the Board approval be for one year plans or multi-year plans?
b. Should flexibility to modify programs and budgets subject to an overall budget cap be provided? With approval only if the utilities wanted to exceed the cap?
c. Should the utilities earn a profit on the delivery of the EE and/or RE CHP or DR programs?

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Transition of the NJCEP Administration to a State Agency including the NJBPU

Or a Third Party Entity not as a regulated EE/RE Utility

The OCE suggests the following key principles be used to guide the discussions for considering an NJCEP transition to the utilities:

1. How does this transition option to a state agency advance the goals of the EMP and the Governor's goals for economic development and jobs creation;
2. How does this option assist in the transition from a rebate based system to a revolving loan or financing system;
3. Will this option result in lower or the lowest administrative cost;
4. Will this option result in the increased energy savings or clean energy generation; and
5. Will this option result in benefits to all ratepayers?

1. State –entity Management

a. Is this for EE, RE, CHP or DR;
b. What programs will continue and what new programs/delivery concepts will be implemented in 2011; and
c. Should utility EE and RE programs continue? If so how should that be coordinated?

2. Rate Issues

The Board has already approved CRA funding levels for 2011 and the existing programs as well as all new BPU incentive program structures need to be within this funding level.

3. Regulatory/Contract Issues

Need to develop a scope of work for all third party contracts and work with Treasury to put out to bid and award a contract. This is currently in development?

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Development of Management of the NJCEP Financing Programs

The OCE suggests the following key principles/objectives to guide the discussions of the transition to a financing program:

1. How does this transition option to a state agency advance the goals of the EMP and the Governor's goals for economic development and jobs creation;
2. How does this option assist in the transition from a rebate based system to a revolving loan or financing system;
3. Will this option result in lower or the lowest administrative cost;
4. Will this option result in the increased energy savings or clean energy generation; and
5. Will this option result in benefits to all ratepayers?

1. Administration/Management

a. Should the administration of the financing program be a state entity or a third party?
b. What current NJCEP programs should transition to a revolving loan or financing – HVAC rebates, Energy Star Product rebates, Home Performance with Energy Star, Residential new construction/Energy Star homes, Smartstart new and retrofit equipment rebates, Direct Install, Pay for Performance, RE incentives, RE grid supply, CHP, demand response ?
c. What current NJCEP incentive/rebate programs should continue in 2011/2012 in the transition?
d. How should financing programs coordinate with any NJCEP incentive/rebate programs in 2011/2012?

2. Rate Issues

a. The Board has already approved CRA funding levels for 2011 and 2012 and the new financing programs as well as all new program structures need to be within this funding level.

3. Regulatory Issues

a. Should the revolving loan or financing programs be for a single year with annual Board approval? Or should the financing programs have approval of multi-year plans?
b. Should the flexibility be to provide a multi year plan and budgets subject to an overall budget cap with Board approval only if they wanted to exceed the cap?

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Development of Procurement of New NJCEP Incentive Programs by Trade Organizations

The OCE suggests the following key principles/objectives to guide the discussions of the transition to a financing program:

1. How does this transition option to a state agency advance the goals of the EMP and the Governor's goals for economic development and jobs creation;
2. How does this option assist in the transition from a rebate based system to a revolving loan or financing system;
3. Will this option result in lower or the lowest administrative cost;
4. Will this option result in the increased energy savings or clean energy generation; and
5. Will this option result in benefits to all ratepayers?

1. Administration/Management

a. Should the administration of the financing program be a state entity or a third party?
b. What current NJCEP programs or new programs should transition to this third party management structure through a competitive bid – HVAC rebates, Energy Star Product rebates, Home Performance with Energy Star, Residential new construction/Energy Star homes, Smartstart new and retrofit equipment rebates, Direct Install, Pay for Performance, RE grid supply, CHP, demand response ?
c. What current NJCEP incentive/rebate programs should continue in 2011/2012 in the transition with the third party management?
d. How should third part managed program coordinate with any NJCEP incentive/rebate programs in 2011/2012?

2. Rate Issues

a. The Board has already approved CRA funding levels for 2011 and 2012 and the new third party managed programs/markets as well as all new program structures need to be within this funding level.

3. Regulatory Issues

a. Should the third party managed programs/markets be for a single year with annual Board approval? Or should the financing programs have approval of multi-year plans?
b. Should the flexibility be to provide a multi year plan and budgets subject to an overall budget cap with Board approval only if they wanted to exceed the cap?
c. Need to develop a scope of work for procuring for third party managed programs/markets and work with treasury to issue a bid and award a contract for the new structure for management for programs/markets – this process has been initiated internally.

Next Steps

1. Staff issues transition position paper
2. Public meeting and comments on the transition position paper
3. Staff Straw proposal for transition
4. Public Hearing – Response to comments
5. Recommendation to the Board on the transition
6. Transition

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Timeline for Transitioning Administration of NJCEP

Action	Administrative Options		
Timelines start from date of Board approval of new administrative structure	**State Procurement**	**Utility Procurement**	**EEU**
	# Days		
Establish EEU	NA	NA	60
Prepare and issue RFPs for implementation contractors	90	30	30
Submittal of proposals	45	45	45
Review of proposals and selection of winning bidders	120	30	30
Negotiate and issue contracts	60	14	14
Prepare regulatory filings including programs and budgets	30	30	30
Board approval of programs and budgets	45	45	45
Transition to new administrative structure**	?	?	?
Total	390	194	254

** The transition to the new administrative structure is highly dependent of whether the programs change significantly or not and whether new entities are selected to run the programs that need to develop systems to manage the programs. This could range from a seemless transition if Honeywell and TRC continue to manage the programs, albeit under a new contract, or if a new entity is selected that needs to build an infrastructure.

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Discussion Document

Proposed Structure for a NJ Energy Efficiency Utility

The New Jersey Clean Energy Program (NJCEP) is currently administered by the Board of Public Utilities (the BPU) through contracts with Applied Energy Group, which provides Program Coordinator services, and Honeywell and TRC (the Market Managers), which deliver the energy efficiency and renewable energy programs. The contracts with the Market Managers expire in January 2011.

The BPU is in the process of considering alternative administrative structures. One option proposed for consideration is the creation of an Energy Efficiency Utility. This document summarizes issues related to the creation of an EEU and includes a proposed structure for a NJ EEU.

Background
Several states currently deliver energy efficiency and renewable energy programs on a consistent, statewide, basis. For example[1]:

- The Wisconsin State Energy Efficiency and Renewable Energy Administration ("SEERA"), a project of Wisconsin gas and electric utilities - supervised by the Public Service Commission - creates and funds statewide energy efficiency and renewable energy programs, and contracts through competitive bids one or more entities to implement the programs. See http://www.focusonenergy.com/About-Us/Organizational-Structure.aspx

- Efficiency Vermont, a statewide efficiency utility that plans and delivers ratepayer funded energy efficiency programs under a competitively bid contract to the Vermont Public Service Board. See http://www.efficiencyvermont.com.

- The Connecticut Energy Efficiency Fund which provides statewide efficiency programs jointly implemented by regulated utilities with input and guidance from the Connecticut Energy Conservation Management Board ("ECMB") and approval by the Department of Public Utility Control. The programs are delivered by the states utility and are regulated by the Connecticut PUC. See http://www.ctsavesenergy.org

- The Energy Trust of Oregon which plans delivers and evaluates statewide energy efficiency and renewable energy programs with oversight from the Public Utility Commission and input and guidance from statewide advisory councils. The programs are delivered pursuant to a Trust Agreement between the Oregon PUC and the Energy Trust of Oregon. See http://www.energytrust.org

[1] Northeast Energy Efficiency Partners, Inc.; An Energy Efficiency Strategy for New Jersey; March 2009

- Delaware created a “Sustainable Energy Utility” (SEU) as a non-profit entity that contracts out all of the functions related to designing and delivering energy efficiency and renewable energy programs. See http://www.seu-de.org/

- Hawaii engaged a for-profit entity to administer and deliver EE programs with oversight from the PUC under a competitively bid contract. See http://www.hawaiienergy.com/

Each state has developed an administrative structure that differs in the delivery and contracting methods, depending on the legislative history in the state. Some states utilize a state entity as the contracting agent, some do not. Some require that the entity managing the programs is a not-for-profit entity, others do not.

An EEU can be structured either as a not-for-profit or a for-profit entity. It can be affiliated with utilities, like in Connecticut, or utilities can be prohibited from having any involvement, like in Delaware. Many examples exist of differing administrative structures. As evidenced by the varying administrative structures created across the country, no one model has proven to work better than others. In many cases the model is driven by the historic involvement of utilities and the utilities relationship with regulators.

Administration and delivery of energy efficiency and renewable energy programs requires that several functions be performed by various market actors as follows[2]:

- General Administration and Coordination
  - Propose and manage the budget for a portfolio of programs; maintain contracts with primary contractors; maintain IT system for reports to the commission and legislature
- Program Development, Planning, and Budgeting
  - Public planning and input process; propose general program descriptions and budgets
- Program Administration and Management
  - Manage budget and sub-contracts for individual programs; provide detailed program design; propose program changes based on experience and market response
- Program Delivery and Implementation
  - Market individual programs; provide program delivery services (e.g., energy audits, tech. assistance, rebates); develop M&V guidelines; develop individual projects
- Program/Market Assessment and Evaluation

EEU’s established in other states have utilized one of two main models: the contract model or the regulatory model. The contract model involves the PUC or other state entity engaging the entity (or entities) that administer and deliver the programs through a competitive solicitation. Under the regulatory model utilities deliver the programs under a regulatory compact with the PUC. This model can also incorporate competitive bidding by requiring the utilities to select contractors through a competitive solicitation. Two states, Wisconsin and Vermont, initially utilized the contract model but have since transitioned (or are in the process of transitioning) to the regulatory model.

[2] Charles Goldman; Energy Efficiency Program Administration, Presentation to the Hawaii PUC, June 2007

Key issues in developing a proposed administrative structure include identifying those functions that should be performed by the EEU and those that should be performed by third parties (e.g. other types of energy efficiency service providers), and identifying who will be responsible for procuring the contractors that will administer and deliver the programs.

The proposal discussed below recommends utilization of the regulatory model with contractors selected through a competitive process. The proposal eliminates the need for a trust fund and places responsibility for management of program funds with the EEU. *Importantly, the proposal would remove the BPU from its current role of program administrator.* Alternatively, the BPU would review and approve regulatory filings and the programs would be administered by the EEU.

With these characteristics in mind, the following sets out the roles and responsibilities of the various entities in creating and overseeing a statewide EEU in NJ. This proposal is intended as a starting point for discussions, since, as noted above, an EEU can be structured in many different ways and still be successful.

Note: The proposal set out below does not take into consideration the BPU's legal authority to create such an entity. Should the BPU desire to pursue this proposal further, a legal analysis will be required to determine if legislation is necessary.

Proposed NJ EEU

1. EEU Administrative Organization
    a. The BPU would direct the investor owned natural gas and electric utilities to create an EEU
        i. The BPU would define the structure of the Board of Directors of the EEU
        ii. The BPU would approve the EEU bylaws
    b. The EEU would be funded through the SBC at levels determined by the BPU
        i. The utilities would make payments to the EEU and the EEU would manage the funds
    c. The EEU Board of Directors can either hire in-house staff to administer the programs or hire contract staff.
    d. The EEU shall design, manage and deliver comprehensive energy efficiency programs to the State's residential and commercial customers.
        i. Managing implementation contractors would include quality control/quality assurance functions to ensure high-quality delivery of EE services by implementation contractors and working with trade allies
    e. The EEU shall be eligible for performance based incentives for achieving goals established by the BPU.
        i. i.e. preserve the opportunity for utilities to earn a profit on the delivery of EE programs.
    f. The EEU will serve all customers including customers of municipal electric utilities and delivered fuel heat customers. This element of the proposal will be controversial unless a mechanism is created for non-IOU customers to contribute to funding the programs.

2. Role of the BPU

a. Set standards and frequency for the filing of program plans and cost recovery mechanisms
b. Review and approve statewide program plans (multi-year (three or five year) plans) submitted by the EEU including annual and long-term program goals (i.e., efficiency savings targets, participation rates, etc.)
    i. The BPU would no longer oversee the day to day operation of the programs such as setting rebate levels and program rules. Alternatively, the BPU would approve program plans and performance metrics.
c. Approve cost recovery mechanisms including the award of performance incentives for goal achievement
d. Set requirements, protocols and priorities for program evaluation, measurement, verification and reporting including cost-effectiveness assessment and related research

3. Role of the EEU
    a. Develop, propose and implement statewide energy efficiency program plans as approved by the BPU
    b. Hire staff or procure contractors as needed to deliver the programs
        1. Utilities shall support program implementation through utility customer account representatives that link customers to EEU programs
        2. Utilities shall provide customer data to the EEU as necessary to support marketing and program delivery. The EEU shall be bound by strict rules of confidentiality.
    c. The utilities shall collect SBC funds as authorized by the BPU, and make payments to the EEU as necessary to pay administrative and program costs. This may or may not necessitate the need for an EEU managed Trust Fund.
    d. Conduct market research and program evaluations
    e. Track and report program impacts and results
    f. Meet with an Advisory Committee (see below) to inform program planning, development, implementation and evaluation
    g. Provide administrative support as needed to support any RE programs that require ongoing support

4. Advisory Council
    a. The EEU shall create an Advisory Council to provide the EEU with input related to the development of program designs, budgets and goals.
    b. The Advisory Council shall consist of representatives of business/industry, Rate Counsel, environmental groups, community groups, state agencies with related programs, etc.

5. Program Evaluation
    a. The BPU shall procure an entity to perform an independent evaluation of program and market impacts, cost-effectiveness, and input factors that may affect performance based incentives for the EEU.