

ALERT

NOVEMBER 15, 2012

Energy, Environmental and Utilities Group

News Concerning
Recent Developments in Energy and Environmental Law



New Credits for Commercial and Industrial Ratepayers to Take Effect in January 2013

Starting on January 1, 2013, New Jersey commercial and industrial (C&I) ratepayers will be eligible for a new credit against their Societal Benefits Charge (SBC) contributions. The credit was signed into law by New Jersey Governor Chris Christie on January 17, 2012. Under the provisions of the statute (N.J.S.A. 48:3-60.3), C&I ratepayers may be eligible for a credit against their SBC charge equal to one-half of the costs incurred for the purchase and installation of energy efficiency products and/or services.

The SBC is a charge imposed on New Jersey ratepayers on a per kWh basis for electricity and a per therm basis for natural gas. The charge equates to approximately 3.8 percent of a customer's energy bill and is primarily used to fund New Jersey's Clean Energy Program (CEP). N.J.S.A. 48:3-60.3 provides that C&I ratepayers will be eligible for credits equal to 50 percent of the costs of the energy efficiency project, and up to 100 percent of the ratepayer's SBC obligation. However, if the credit exceeds the SBC obligation in a given year, it may be carried over for up to 10 additional years.

The New Jersey Board of Public Utilities (BPU) has released a straw proposal suggesting how the credit program will be implemented. The straw proposal outlines the technical requirements of measurement and verification, and the general terms and conditions of the credit program.

To be eligible for the SBC credit, the proposed energy efficiency program must also be otherwise eligible for incentives under the CEP during the year in which construction is performed. Renewable energy and maintenance energy saving projects are not eligible for the credit. The energy efficiency programs must also result in a 15 percent reduction in total building source energy consumption.

However, the BPU may lower this threshold for certain manufacturing customers whose energy use is tied to manufacturing and process-related loads, such as data consumption. If a C&I ratepayer's manufacturing or load-process activities account for 50 percent or more of a facility's total energy use, the ratepayer may be eligible for a credit if their energy program achieves at least a 4% reduction in total building source energy consumption.

C&I ratepayers must also demonstrate a payback on the energy efficiency measures within eight years, or have an internal rate of return (IRR) for the project of 10 percent or greater. Ratepayers may also accept federal grants or incentives and other state and utility incentives to construct and implement eligible projects as long as the funding does not originate from the CEP.

The BPU will hold a legislative-type hearing on December 3, 2012 to receive comments on the straw proposal. If any party wishes to provide oral testimony, they must notify the BPU by November 30, 2012. Written comments are due by December 3, 2012.

To discuss any questions you may have regarding this Alert, or how it may apply to your particular circumstances, please contact a member of Cozen O'Connor's Energy, Environmental & Public Utilities Practice.

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