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MAY 01 2018  
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TRENTON, NJ

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April 30, 2018

**VIA FEDERAL EXPRESS**

Aida Camacho, Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350

RECEIVED  
CASE MANAGEMENT

MAY 01 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

Re: Verified Joint Petition of RPM Development, L.L.C. and Mantua Urban  
Renewal Associates, L.P. for Waiver of B.P.U.N.J. No. 15 Electric,  
Original Sheets Nos. 26 and 27, Standard Terms and Conditions No. 9.2  
Docket No. EW18050497

Dear Secretary Camacho:

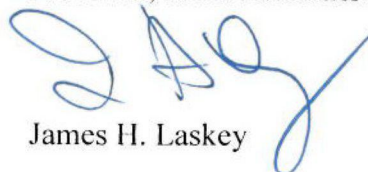
Enclosed for filing on behalf of RPM Development, L.L.C. and Mantua Urban Renewal Associates, L.P., please find an original and 11 copies of the Verified Joint Petition for waiver of B.P.U.N.J. No. 15 Electric, Original Sheets Nos. 26 and 27, Standard Terms and Conditions No. 9.2. Enclosed also is our check in the amount of \$25.00 to cover the filing fee.

Please return a copy of the filed petition with the assigned docket number in the enclosed self-addressed, stamped envelope.

CMS  
LEGAL  
DIAG  
RPA  
S. Peterson  
ENERGY(S) TDC

Very truly yours,

NORRIS, McLAUGHLIN & MARCUS, P.A.

  
James H. Laskey

JHL/lis  
Enclosures

cc: Tamara L. Linde, Esq.  
Stefanie A. Brand, Esq.



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MAY 01 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

MAY 01 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

I/M/O Verified Petition of

**RPM Development, L.L.C. and Mantua Urban  
Renewal Associates, L.P.**

for Waiver of B.P.U.N.J. No. 15 Electric, Original  
Sheets Nos. 26 and 27, Standard Terms and Conditions  
No. 9.2

Docket No. \_\_\_\_\_

**VERIFIED JOINT PETITION**

RPM Development, L.L.C. ("RPM") and Mantua Urban Renewal Associates, L.P. ("Mantua," and together with RPM, the "Petitioners") hereby petition the Board of Public Utilities ("Board") for a waiver of the provision in the tariff of Public Service Electric and Gas ("PSE&G") regarding the provision of master metered service, so as to permit master metering for a newly constructed, 100% affordable 64-unit apartment building in Westville (Gloucester County), New Jersey. The reason for the requested waiver is that the building is being designed as a Net Zero Energy building, believed to be the first of its kind in New Jersey. To achieve this, the design team has designed the building to meet Passive House standards, which include numerous design features to reduce the electric usage in the building to a level below that of even the LEED-Platinum standard. The residual electric usage will be addressed by an on-site photo-voltaic (PV) system that has been sized to the anticipated aggregate load of the building, including the 64 apartments plus common facilities. However, if each apartment unit were required to have a separate retail account with PSE&G, as is the norm for new residential construction, each apartment would also be required to have its own dedicated set of PV panels and inverters, with the result that the efficiency and economy of scale available through

aggregating the individual loads would be unavailable. This would effectively thwart the overall goal of Net Zero Energy, because some apartments would be over-supplied with solar energy, while others would be undersupplied. The requested waiver will allow the total usage to be billed through a single master meter. The landlord, Mantua, would be responsible for paying PSE&G's charges, and would also be prohibited by regulations applicable to this type of affordable housing from passing these charges on to the tenants.

In support of this Petition, Petitioners provide the following information:

**I. DESCRIPTION OF THE PETITIONERS**

1. RPM is an award-winning, diversified real estate company with over two decades of experience in development, construction, leasing, and property management. Since 1986, RPM has built and managed over 3,000 units of housing across New Jersey. It has offices in Montclair and Camden and a staff of almost 140 employees.

2. Including projects currently under development, RPM has secured the financing and approvals for buildings and redevelopment initiatives that represent over 3,000 units of housing, nearly 200,000 square feet of commercial space, and hundreds of millions of dollars in community investment across New Jersey. Its commitment to creating high-quality, well-designed housing that incorporates the latest advances in energy-efficient construction has allowed the company to emerge as a leader in the production and management of mixed-income housing.

3. RPM has won over 100 awards for its work. It is a 7-time winner of the Excellence in Housing Management Award from the New Jersey Housing and Mortgage Finance Agency ("HMFA") and a 14-time winner of the Governor's Award for Excellence in Housing from the New Jersey Department of Community Affairs ("DCA"). RPM has also received



Awards for more than two dozen LEED Platinum buildings from the United States Green Building Council.

4. RPM has very productive relationships with HMFA as well as DCA. Support from HMFA & DCA has enabled RPM to finance the majority of its mixed-income transactions. RPM excels at attracting and utilizing all of the public and private financing available to build developments such as the one contemplated herein.

5. Mantua is a New Jersey limited partnership that will develop, own and operate the building in Westville. RPM is Mantua's general partner. The limited partner will be a unit of Wells Fargo Bank.

## **II. DESIGNATED CONTACTS**

6. Questions, correspondence or other communications concerning this Petition should be directed to:

Frank Casciano  
Counsel  
RPM Development Group  
77 Park Street  
Montclair, New Jersey 07042  
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908-722-0755 (Fax)  
[jlaskey@nmmlaw.com](mailto:jlaskey@nmmlaw.com)

## **III. THE PROPOSED PROJECT AND REQUESTED WAIVER**

7. The building being planned in Westville, which will be developed, owned and operated by RPM's affiliate Mantua, will be 100% affordable, and financed through the use of Low Income Housing Tax Credits ("LIHTC"). This means that all of the units will be subject to the various affordability and income restrictions imposed upon LIHTC developments.

8. The LIHTC program was created by the Tax Reform Act of 1986 and is codified in Section 42 of the Internal Revenue Code, 26 U.S.C.A. § 42. Each state receives an annual

allocation of tax credits calculated on a dollar per resident basis. That per capita dollar amount is adjusted periodically based upon applicable economic indices. The annual amount of LIHTC granted to each state is then allocated by the state housing authority on a project by project basis. In New Jersey that allocation is made by the New Jersey Housing and Mortgage Finance Agency (“HMFA”). In making its allocation, HMFA uses a project scoring system referred to as the Qualified Allocation Plan (“QAP”) which measures a project’s satisfaction of various criteria that the HMFA is seeking to meet in any given year. For example, in some years the emphasis is on senior housing in economically distressed municipalities, in which case access to public transportation may benefit a project score; in another year, the emphasis may be on family housing in the suburbs, in which case access to schools may be an advantage. The general provisions of the QAP can be found at N.J.A.C. 5:80-33.1 et. seq.

9. Energy efficiency is a characteristic that always adds to a project’s QAP score. Accordingly, RPM routinely designs buildings to meet the LEED Platinum standard. The Westville project, however, exceeds even these standards. It is expected to be Net Zero Energy, meaning that the on-site solar should produce enough solar energy to equal the building’s consumption of electricity on an annual basis. Upon information and belief, it will be the first apartment building in New Jersey to be Net Zero Energy.<sup>1</sup>

10. An affordable housing developer such as RPM which receives an LIHTC award for a given project then seeks to locate a buyer of those credits and to obtain the highest price per dollar of tax credit from that buyer. That price varies from year to year and project to project

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<sup>1</sup> While information about Net Zero Energy apartment buildings is not readily available at a single source, even in sunny Los Angeles the first Net Energy Zero apartment building was only completed last year. <https://www.proudgreenbuilding.com/articles/first-net-zero-energy-apartments-go-live-in-los-angeles/>.

based upon the tax credit market and the project's desirability, but once arrived upon it represents the amount of money that the LIHTC purchaser will invest in the project. The LIHTC purchaser is generally the affordable housing subsidiary of a money center bank. Upon closing of the financing transaction, the LIHTC purchaser is admitted to the project as the investor limited partner or the investor member, depending upon whether the project entity is structured as a limited partnership or limited liability company. The investor acquires a 99%+ equity interest in the project with the remaining equity percentage remaining under control of the developer which serves as General Partner or Managing Member.

11. LIHTC projects must comply with affordability period restrictions, tenant income restrictions based upon applicable Area Median Income ("AMI"), and occupancy restrictions. For example, a project may be required to lease at least 40% of its units to tenants earning less than 60% of AMI and at least 20% of its units to tenants earning less than 50% of AMI. Moreover, an LIHTC property must be maintained as an affordable housing building for at least 30 years from the date of commencement of occupancy. That includes a 15-year initial compliance period and a 15-year extended use period as required by 26 U.S.C.A. § 42(h)(6). In addition, RPM agreed to an additional 15-year restriction in order to enhance its application. This combined 45-year extended use period will be evidenced by execution and recordation a Deed Restriction with HMFA. The form of the Deed of Easement and Restrictive Covenant for Extended Low-Income Occupancy to be executed and filed in connection with the Westville project is attached hereto as Exhibit A.

12. The Westville project is 100% affordable, meaning that it will be required to have all of its tenants earn no more than 60% of AMI. In addition, 25% of the units will be reserved for the developmentally disabled with incomes of approximately 20% of AMI, or just above



poverty level. Based on these commitments, the project has received approximately \$12 million dollars' worth of LIHTC from HMFA. The project is also being designed as age restricted, meaning at least 80% of the tenants must be age 55 or older, and no children under the age of 18 are permitted. Because 56 of the apartments are only one bedroom, Petitioners expect that the percentage of tenants satisfying the age restriction will be even higher than 80%.

13. Regarding the electrical needs of this project, the total projected building energy demand for the building is 325,200 kWh/yr. This is split into the common area load of 133,200 kWh/yr and the individual apartment loads, which have been estimated at 3,000 kWh/yr/Apt (multiplied by 64 for the whole building). As a result of the building's innovative design, the estimated annual per unit consumption under typical operating conditions of 3,000 kWh is just over 50% of what normal consumption would be for comparably-sized units (approximately 5,640 kWh per year). Total estimated energy consumption for this building is so much less than similarly-scaled standard multifamily construction due to the highly efficient building envelope and the integration of a centralized variant refrigerant volume (VRV) heat pump system for heating and cooling, high-efficiency heat pump water heaters for the building's domestic hot water (DHW) needs, and continuous mechanical ventilation in each apartment unit. This strategic approach to the design of thermal envelope and building systems align with the project's goal of being certified under the Passive Building Standard developed by the Passive House Institute US ("PHIUS"). Buildings designed and built to this standard will typically consume energy at roughly half that of a normal code-compliant building.<sup>2</sup>

14. Currently, the heating and cooling manufacturing industry does not offer systems that match the modest needs for 700-1100 square foot apartments. This problem is further

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<sup>2</sup> More information about the Passive Home standards is available at <http://www.phius.org/about/mission-history>

exacerbated when considering the additional measures used to meet the Passive Building standards. If traditional methods were to be used to heat or cool the building, the systems would be oversized by at least 170%. Cutting edge VRV heat pump systems for heating and cooling are able to be sized appropriately, so that the demands of the building are met with the higher efficacy of a system evenly matched with the load of the building it serves. By designing to the much more energy conscious standard adopted by PHIUS, the loads are so far reduced that an onsite photovoltaic system can produce adequate energy to offset all of the building's consumption annually.

15. To accommodate the expected 325,000 kWh/yr energy load, RPM's engineers have collaborated directly with solar consultants to design a 280 kw system consisting of approximately 780 360W commercial grade solar panels. These panels are split between a ballasted flat roof system (492 panels) and several carport structures in the parking area (288 panels total). The expectation is that the photovoltaic design will cover 100% of the building's electrical needs, thereby achieving the Net Zero Energy goal.

16. Petitioners estimate that the incremental cost of designing the building to be Net Zero Energy over its normal LEED Platinum design standards to be approximately 30% higher. However, RPM is highly motivated by the opportunity to be the first developer in New Jersey with such a building, which of course will also dovetail neatly with the new aggressive goals for reliance on renewable energy announced by the Murphy administration.

17. Petitioners recognize that the prohibition on master metering for new residential construction generally has the salutary goal of making each tenant responsible for his or her own usage, thereby encouraging efficiency. However, imposing this requirement for the present building would cause significant hardship without any countervailing benefit. The most practical



and economically efficient way to achieve Net Zero Energy for this building is to have the PV system available to offset the entire aggregated load of the entire building. Otherwise, a set of individual panels and a single inverter would need to be dedicated to each individual apartment. The odds of such an installation matching the load for an individual apartment are very small. However, with aggregation, Petitioners are confident that the output of the PV system will be very close to the aggregate load of the building.

18. In the event Petitioners are wrong, and tenants use more power than is being predicted, the risk is entirely on Petitioners. The maximum rent that Mantua is permitted to charge includes all utility costs. The rent can only increase according to changes in the Area Median Income as modified annually by the federal government. An increase in utility costs is not grounds to raise any tenant's rent.

19. Mantua plans to install submeters for statistical and monitoring purposes. If it identifies any instances of excessive on-site energy usage, its on-site building manager will be able to have a conversation with the tenant to go over strategies to reduce usage.<sup>3</sup> However, excessive usage will not be grounds for termination of a tenant's lease.

20. Tenants will not have any direct relationship with PSE&G, nor will they be receiving any billing information from PSE&G. Tenants will be informed that, in the event of any concerns with their electric service, they should contact the on-site building manager, just as they would for any other in-unit service concern.

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<sup>3</sup> Behavioral science research has confirmed that giving residents knowledge about how their usage compares with their neighbors is an effective conservation tool. See *Love Thy Neighbor's Energy Bill: Using Behavioral Science to Save Money* (American University September 21, 2015), available at <https://onlinebusiness.american.edu/love-thy-neighbors-energy-bill-using-behavioral-science-to-save-money/>

21. While RPM maintains excellent relationships with its tenants, as evidenced by a 98% occupancy rate throughout its developments, in the unlikely event that neither the on-site building manager nor RPM headquarters is able to address a tenant concern, the Housing Standards Code adopted by Westville, attached hereto as Exhibit B, provides ample protection for tenants. Not only does it create its own requirements, it incorporates by reference various DCA codes that require every dwelling to be provided with electric service, and further require timely correction of any interruption in utility service. N.J.A.C. 5:28-1.6(b) and N.J.A.C. 5:10-4.2(c). The Westville code is enforced by municipal inspectors. There are procedures for reporting and investigating complaints, and enforcing remedies. In short, the absence of a direct customer relationship with PSE&G will not leave tenants without recourse for inadequate electric service.

22. The building will also have an on-site backup generator, so that essential services for the tenants can be maintained even in the event of a PSE&G outage.

23. As explained above, the waiver will allow the heating and cooling systems to be designed for the building as a whole, rather than having individual heating and cooling systems inside each unit. While the systems will still be subject to individual control inside each apartment, the master units themselves will be far more efficient than what could be installed individually.

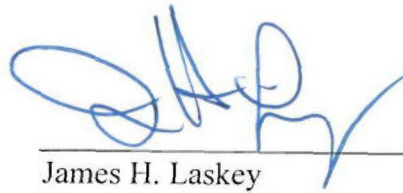
#### **IV. CONCLUSION**

24. For the foregoing reasons, Petitioners submit that the public interest, convenience and necessity would be furthered by grant of this Petition for the requested waiver.

WHEREFORE, Petitioners ask the Board:

- (1) To grant the waiver as requested herein; and
- (2) To grant such other relief as may be just and reasonable.

Respectfully submitted,



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James H. Laskey  
Norris McLaughlin & Marcus, P.A.  
400 Crossing Blvd, 8th Floor  
Bridgewater, NJ 08807-5933  
jlaskey@nmmlaw.com

*Counsel for Petitioners*

Dated: April 30, 2018



### VERIFICATION

I, Edward G. Martoglio, verify the foregoing petition as follows:

I am the sole member of RPM Development, L.L.C. ("RPM") and am authorized to sign this verification on behalf of RPM and its affiliates.

I have read the foregoing petition and verify that the facts contained therein relating to RPM and its affiliates are true to the best of my knowledge, and the opinions contained therein relating to RPM and its affiliates are correct to the best of my belief.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



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Edward G. Martoglio

Dated: April 25, 2018