



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 9<sup>th</sup> Floor**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**

**MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF PUBLIC UTILITIES**

A Regular Board meeting of the Board of Public Utilities was held on March 19, 2014, at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

Public notice was given pursuant to N.J.S.A. 10:4-18 by posting notice of the meeting at the Board's Trenton Office, on the Board's website, filing notice of the meeting with the New Jersey Department of State and the following newspapers circulated in the State of New Jersey:

Asbury Park Press  
Atlantic City Press  
Burlington County Times  
Courier Post (Camden)  
Home News Tribune (New Brunswick)  
North Jersey Herald and News (Passaic)  
The Record (Hackensack)  
The Star Ledger (Newark)  
The Trenton Times

The following members of the Board of Public Utilities were present:

Dianne Solomon, President  
Jeanne M. Fox, Commissioner  
Joseph L. Fiordaliso, Commissioner  
Mary-Anna Holden, Commissioner

President Solomon presided at the meeting and Kristi Izzo, Secretary of the Board, carried out the duties of Secretary.

It was announced that the next regular Board Meeting would be held on April 23, 2014 at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

## CONSENT AGENDA

### I. AUDITS

#### A. **Non-docketed Matter – In the Matter of the Town of Dover Water Commission – Request for Extension of Time to File Its 2013 Annual Report with the Board.**

**BACKGROUND:** This matter involved a request by the Town of Dover from the Board for a 60 day extension to file the 2013 annual report.

Pursuant to N.J.A.C. 14:3-6.3, every utility shall file with the Board, on or before the March 31 of each year, an annual report summarizing its finances and operations for the preceding calendar year. A utility may file a request with the Board Secretary for an extension of up to 30 days for filing the annual report. Each additional 30-day extension, after the initial extension granted, requires the submission of a separate request for extension. Current policy requires Board approval for an extension of time to file an annual report which extends the filing date by more than 30 days.

According to a letter dated February 26, 2014, Ms. Kelly Toohey the Chief Financial Officer/Treasurer for the Town of Dover had cardiac surgery on March 11 and will be out of the office for six to eight weeks. The report is incomplete and will not be completed on time, therefore she requested a two month extension to submit the report. With this extension, the annual report will be due on or before May 30, 2014.

After reviewing the request submitted by Town of Dover, Staff recommended the Board approve this extension.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

#### B. **Energy Agent, Private Aggregator and/or Energy Consultant Initial Registrations**

EE14010029L	T.E. Energy Consultants, LLC	I-EA
EE13111064L	EnerCom, Incorporated	I-EA
EE13121178L	Demand Response Partners Incorporated	I-EA
EE14010030L	Dynamis Energy, LLC	I-EA/PA/EC
GE14010031L	d/b/a United Energy Services	
EE14010006L	Precision Group, LLC	I-EA/PA/EC
GE14010007L		

#### **Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations**

EE14010037L	Open Energy Services, LLC	R-EA
EE13111091L	Reflective Energy Solutions, LLC	R-EA/PA/EC
GE13111092L		
EE13111125L	Global Energy Marketing, LLC	R-EA/PA/I-EC
GE13111126L		
EE14010008L	Solutions Energy, LLC	R-EA/EC
GE14010009L		

**BACKGROUND:** The Board must register all energy agents and consultants, and license all third party electric power suppliers and gas suppliers. An electric power supplier, gas supplier, or clean power marketer license shall be valid for one year from the date of issue, except where a licensee has submitted a complete renewal application at least 30 days before the expiration of the existing license, in which case the existing license shall not expire until a decision has been reached upon the renewal application. An energy agent, private aggregator or energy consultant registration shall be valid for one year from the date of issue. Annually thereafter, licensed electric power suppliers, gas suppliers, and clean power marketers, as well as energy agents and private aggregators, are required to renew timely their licenses in order to continue to do business in New Jersey.

Having reviewed the submitted applications in accord with N.J.A.C. 14:4-5.4, Staff recommended the Board issue initial registrations as an energy agent, private aggregator and/or energy consultant for one year to:

- T.E. Energy Consultants LLC
- EnerCom, Inc.
- Demand Response Partners Inc.
- Dynamis Energy, LLC d/b/a United Energy Services
- Precision Group LLC

Staff also recommended the following applicants be issued renewal registrations as an energy agent, private aggregator and/or energy consultant for one year:

- Open Energy Services LLC
- Reflective Energy Solutions LLC
- Global Energy Marketing LLC
- Solution Energy, LLC

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**C. Docket No. TE14010054 – In the Matter of the Petition of Vitcom, LLC for Authority to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey.**

**BACKGROUND:** By letter dated January 15, 2014, Vitcom, LLC (Petitioner or VITCOM) filed a verified Petition with the Board requesting authority to provide both resold and facilities-based Unbundled Network Elements (UNE) local exchange and interexchange telecommunications services throughout the State of New Jersey.

The Petitioner will initially provide services by resale and by purchasing UNEs from incumbent local exchange carriers. Its services will include, but not be limited to, local exchange services including local dial tone and custom calling features that will enable customers to originate and terminate local calls in the local calling area served by the Petitioner as well as other local exchange carriers, Switched local exchange services such as flat-rates and measure-rated local services, vertical, Direct Inward and Outward Dialed trunks, carrier access, public and semi-public coin telephone services, any other switched local services that currently exist or will exist in the future. VITCOM's services will also include non-switched local services such as private lines, Centrex and/or Centrex-like services that currently exist or will exist in the future, Digital subscriber lines, integrated

services digital network and other high capacity line services, VoIP Services, Interexchange switched and dedicated services such as outbound dialing, toll free inbound dialing, Prepaid and Postpaid calling cards, Directory Assistance, Frame Relay and other data services. The Petitioner maintains a toll-free number for customer service inquiries.

VITCOM requested a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3, which requires that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts (USOA), respectively. The Petitioner also stated, upon written notice from the Board and/or Board Staff, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

By letter dated January 27, 2014, the Division of Rate Counsel submitted comments with the Board stating that it did not object to Board approval of the verified Petition.

After review, Staff recommended the Board approve the request for authority to provide local exchange and interexchange telecommunications services in the State of New Jersey. Staff also recommended the Board approve the request for waivers from its requirements that the Petitioner maintain its books and records in accordance with the USOA and within New Jersey.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

## II. ENERGY

### A. **Docket No. BPU GR13111137 – In the Matter of the Petition of South Jersey Gas Company for Approval of Increased Base Tariff Rates and Charges for Gas Service and Other Tariff Revisions.**

**BACKGROUND:** On November 29, 2013, South Jersey Gas Company (Company) filed a petition with the Board seeking approval to revise the Company's tariff sheets containing increased rates for gas service and other revised terms and conditions. The Company sought to implement its proposed rates to become effective for service rendered on or after December 30, 2013, or at such later date as the Board may determine.

This matter was transmitted to the Office of Administrative on or about December 6, 2013 and assigned to Administrative Law Judge (ALJ) W. Todd Miller. Since this matter is still pending before ALJ Miller, Staff recommended the Board suspend the proposed rate increase until April 30, 2014, pending further action on this matter.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

### B. **Docket No. BPU ER13111135 – In the Matter of the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for Electric Service, and Its Depreciation Rates; Termination of the Smart Grid Surcharge; Establishment of a Storm Hardening Surcharge; and for Other Relief.**

**BACKGROUND:** On November 27, 2013, Rockland Electric Company (Company) filed a petition with the Board seeking approval to revise the Company's tariff sheets containing increased rates for electric service and other revised terms and conditions. The Company

sought to implement its proposed rates to become effective for service rendered on or after January 1, 2014, or at such later date as the Board may determine.

This matter was transmitted to the Office of Administrative Law on or about December 9, 2013 and assigned to Administrative Law Judge (ALJ) McGill. Since this matter is still pending before ALJ McGill, Staff recommended the Board issue an order suspending the proposed rate increase until May 1, 2014 pending further action on this matter.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

### III. CABLE TELEVISION

**A. Docket No. CE13111090 – In the Matter of the Petition of Comcast of Monmouth County, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Holmdel, County of Monmouth, State of New Jersey.**

**BACKGROUND:** On May 21, 2013, the Township of Holmdel (Township), after public hearing, adopted a municipal ordinance granting renewal consent to Comcast of Monmouth County, LLC (Comcast). On September 3, 2013, the Township adopted an amendment to the municipal consent ordinance. On October 25, 2013, Comcast accepted the terms and conditions of the ordinance, and on November 15, 2013, Comcast filed a petition with the Board.

Staff recommended approval of the proposed Renewal Certificate of Approval. This certificate shall expire on January 14, 2027.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

### IV. TELECOMMUNICATIONS

**A. Docket No. TF14020155 – In the Matter of the Verified Petition of Onvoy, Inc. for Approval to Expand Its Financing Arrangements.**

**BACKGROUND:** On February 10, 2014, Onvoy, Inc. (Petitioner, Onvoy) submitted a Verified Petition to the Board requesting approval to expand its financing arrangements to an aggregate amount of up to \$40 Million.

The Petitioner expects that any long-term indebtedness incurred as part of the proposed financing arrangements will mature up to eight years after issuance, depending on the type of debt instrument. Interest rate(s) will be set according to market conditions at issuance and will be fixed or floating, or a combination thereof, with floating rates consisting of a base rate plus an agreed upon margin. Some or all of the expanded financing arrangements will be secured with security interests in the assets of Onvoy and the equity in Onvoy. The financing arrangements may be used to support strategic growth initiatives, to fund future acquisitions, to refinance debt obligations, for working capital requirements, and for other types of general corporate purposes.

Onvoy provides wholesale local exchange and long distance, tandem switching, transit and other access services to other carriers. In New Jersey, Onvoy is authorized to provide resold and facilities-based local exchange, interexchange, exchange access and private line telecommunications services.

After review of the information submitted in this proceeding, the Office of the Economist found that the action requested is in accordance with the law and in the public interest and therefore recommended approval of this petition.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**B. Docket No. TF14010102 – In the Matter of the Verified Petition of Network Billing Systems, LLC for Approval to Participate in Financing Arrangements of Fusion NBS Acquisition Corporation.**

**BACKGROUND:** On January 29, 2014, Network Billing Systems, LLC (Petitioner, NBS) submitted a Verified Petition to the Board requesting approval to participate in additional financing arrangements of its parent company, Fusion NBS Acquisition Corp.

NBS sought Board approval to incur debt and pledge its assets as security for, up to an aggregate amount of up to \$42 Million. The Petitioner expects that any long-term indebtedness incurred as part of the financing arrangements will mature between five and eight years after issuance, depending on the type of debt instrument. Interest rate(s) will be set according to market conditions at issuance and will be fixed or floating, or a combination thereof, with floating rates consisting of a base rate plus an agreed upon margin.

The financing arrangements may be used to fund acquisitions, for working capital requirements, and for other types of general corporate purposes.

In New Jersey, NBS is authorized to provide local exchange and interexchange telecommunications services. NBS is also authorized by the Federal Communications Commission to provide domestic and international telecommunications services.

After review of the information submitted in this proceeding, the Office of the Economist found that the action requested is in accordance with the law and in the public interest and therefore recommended approval of this petition.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**C. Docket No. TO14010053 – In the Matter of the Joint Application of Verizon New Jersey, Inc. and One Voice Communications, Inc. for Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.**

**BACKGROUND:** By separate letters, Verizon New Jersey, Inc. (Verizon NJ) and One Voice Communications, Inc. (collectively, Petitioners) filed an application with the Board for the approval of a negotiated interconnection agreement. The agreement set forth the terms, conditions and prices under which the Petitioners will offer and provide network interconnection, call transport and termination, and ancillary services to each other within each Local Access and Transport Area in which they operate in New Jersey.

The agreement addresses a number of complex issues, which provide for:

- (1) access to unbundled network elements;
- (2) reciprocal compensation for terminating local traffic depending on where traffic is terminated on the companies' respective networks;
- (3) the resale of Verizon NJ retail telecommunications services for a wholesale discount; and
- (4) the offering of 911 services to all customers.

Staff's review of the above referenced agreement found that each has similar rates and consistent terms and conditions sufficient to support Staff's recommendation for approval. Therefore, Staff recommended approval of the agreement.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**D. Docket No. TM14010013 – In the Matter of the Joint Petition of Peerless Network, Inc. and IntelePeer, Inc. for Approval of a Transfer of Control of an Authorized Telecommunications Provider.**

**BACKGROUND:** On January 10, 2014, Peerless Network, Inc. (Peerless) and IntelePeer, Inc. (IntelePeer) (collectively, Petitioners), filed a verified petition requesting authority from the Board in connection with a transaction that resulted in the transfer of control of IntelePeer to Peerless. IntelePeer continues to operate in New Jersey and continues to provide services to its existing customers pursuant to the existing rates, terms, and conditions. The Petitioners respectfully request approval of this transaction be granted "nunc pro tunc."

By letter dated January 21, 2014, the Division of Rate Counsel advised that it had no objection to the Petitioners' requests under their Verified Petition.

Having reviewed the petition and supporting documents, Staff did not find any reason to believe that there will be an adverse impact on rates, competition in New Jersey, the employees of the Petitioners, or on the provision of safe adequate and proper service to New Jersey consumers. Moreover, a positive benefit may be expected from the strengthening of the Petitioner's competitive posture in the telecommunications market. Staff recommended that this matter be approved as within time.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**V. WATER**

There were no items in this category.

**VI. RELIABILITY & SECURITY**

There were no items in this category.

## VII. CUSTOMER ASSISTANCE

### A. Docket Nos. BPU WC12100930U and OAL PUC 01404-13 – In the Matter of Seth Kurz, Petitioner v. United Water New Jersey, Inc., Respondent – Request for Extension.

**BACKGROUND:** The Initial Decision of the Administrative Law Judge was received by the Board on February 20, 2014, therefore the 45-day statutory period for review and the issuing of a Final Decision will expire on April 7, 2014. Prior to that date, the Board requested an additional 45-day extension of time for issuing the Final Decision in order to review the entire record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until May 22, 2014.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

### B. Docket Nos. BPU GC12110982U and OAL PUC 01334-13 – In the Matter of Michael Rosero, Petitioner v. Public Service Electric and Gas Company, Respondent Billing Dispute.

**BACKGROUND:** This matter involved a billing dispute between Michael A. Rosero (Mr. Rosero) and Public Service Electric and Gas Company (PSE&G or Company). The petition was transmitted to the Office of Administrative Law on February 1, 2013, as a contested case. Administrative Law Judge (ALJ) Irene Jones filed an Initial Decision in this matter with the Board on February 25, 2014, approving a Stipulation of Settlement (Settlement) of the parties.

Pursuant to the terms of the Settlement, and in order to resolve this matter without further delay, PSE&G agreed to remove the transfer in the amount of \$2,100.42 from Mr. Rosero's account. The Company also agreed to credit Mr. Rosero's account \$1,500.00.

The Board, at its discretion, has the option of accepting, modifying or rejecting the Initial Decision of ALJ Jones. Staff recommended the Board adopt the Initial Decision.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

### C. Docket Nos. BPU EC13020175U and OAL PUC 05301-13 – In the Matter of Gaspare Campisi of Gaspare's Gourmet, Petitioner v. Atlantic City Electric Company, Respondent – Request for Extension.

**BACKGROUND:** The Board received the Initial Decision of the Administrative Law Judge on December 20, 2013. The period for issuing a Final Decision was extended to March 20, 2014, by a previous Order of Extension. Prior to that date, the Board requested an additional forty-five day extension of time for issuing the Final Decision. Pursuant to the requirements of N.J.S.A. 52:14B-10(c), the Board obtained consent from the parties for this extension request.



Good cause and unanimous agreement having been shown, pursuant to N.J.A.C. 1:1-18.8 and N.J.S.A. 52:14B-10(c), Staff recommended the time limit for the Board to issue a Final Decision be extended until May 5, 2014.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**D. Docket Nos. BPU WC12060563U and OAL PUC 12139-12 – In the Matter of Elaine Dubelman, Petitioner v. United Water New Jersey, Inc., Respondent – Request for Extension.**

**BACKGROUND:** The Initial Decision of the Administrative Law Judge was received by the Board on February 27, 2014; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on April 13, 2014. Prior to that date, the Board requested an additional 45-day extension of time for issuing the Final Decision in order to fully review the record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until May 28, 2014.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**VIII. CLEAN ENERGY**

There were no items in this category.

**IX. MISCELLANEOUS**

**A. Approval of the Minutes of January 29, 2014.**

**BACKGROUND:** Staff presented the minutes of the January 29, 2014 agenda meeting and recommended they be accepted.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**After appropriate motion, the consent agenda was approved.**

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

## AGENDA

### 1. AUDITS

#### A. Docket No. EO12080760 – In the Matter of the Department of Community Affairs' State Fiscal Year 2013 Universal Service Fund Administrative Cost Budget.

Maureen Clerc, USF Team, presented this matter.

**BACKGROUND AND DISCUSSION:** This matter concerned the administrative costs submitted by Department of Community Affairs (DCA) for State Fiscal Year 2013 (FY13) for the Universal Service Fund (USF) program.

On September 13, 2012, the Board approved the FY13 DCA USF administrative cost budget in the amount of \$7,948,299.00 - In the Matter of the Department of Community Affairs' State Fiscal Year 2013 Universal Service Fund Administrative Cost Budget – Docket Number EO12080760. On December 9, 2013 DCA submitted a detailed USF administrative report, which listed expenditures of \$7,204,119.00, with a remaining balance of \$744,180.00.

While the total expenses are under-budget, the "Materials and Supplies" category was \$11,733.00 over budget due to printing costs exceeding the estimated amount. This is because the number of applicants has increased from the prior year by approximately 15,000 households and every USF applicant receives a series of system generated notices informing them of their application status and their eligibility for the program. Staff reviewed DCA's expense reports for FY13 and found that the costs listed therein appear appropriate and necessary for the administration of the USF program.

Accordingly, Staff found that DCA has adequately justified its FY13 USF administrative expenditures, and recommended the Board authorize reimbursement of \$7,204,119.00 to the Department of Treasury to cover the DCA FY13 USF administrative expenses.

The FY 2013 expenses are broken down as follows:

DCA	\$ 1,324,141.00
Subgrantees-	
County Welfare Organizations	\$ 227,200.00
Community Based Organizations	<u>\$ 5,652,778.00</u>
<b>Total</b>	<b>\$ 7,204,119.00</b>

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

## 2. ENERGY

### A. Docket No. ER14010002 – In the Matter of the Federal Energy Items for 2014 – Independent Market Monitor for PJM v. PJM Interconnection, LLC – FERC Docket No. EL14-20-000 – Intervention and Comments.

Jennifer S. Hsia, Deputy Attorney General, Division of Law, presented this matter.

**BACKGROUND AND DISCUSSION:** On February 24, 2014, the Board filed intervention and comments in the above Federal Energy Regulatory Commission (FERC) matter. The comments support the Independent Market Monitor's initial complaint in the matter. More specifically, the Board sought placing demand resources on an equal footing with generation resources so that customers paying high resale price maintenance (RPM) prices realize the same benefits of hourly energy deliveries and that those deliveries are capped at the same maximum \$1,000 price per megawatt-hour applicable to generation resources.

The complaint filed by the PJM Market Monitor in FERC Docket No. EL14-20 sought to level the playing field between generation owners and demand resource owners. First, the Market Monitor requested that FERC require demand resource owners in PJM to offer their capacity into the PJM Day-Ahead Energy Market in all 8,760 hours of the year, thereby ensuring that demand resource owners provide consumers with the same benefits realized from generation resources: a reliable source of year-round energy in exchange for the hefty RPM capacity payments borne by consumers. Second, the Market Monitor requests that FERC cap the maximum payment received by demand resource owners for energy deliveries at the same \$1,000/mWh that is applicable for generation resources. If certain demand resources that are currently clearing the RPM market are incapable of providing energy in all hours of the year, those resources will be displaced by new generation capacity offered into the RPM market.

The Board sought to intervene and file comments supporting the PJM Market Monitor's complaint as a means to even the opportunities presented to generation and demand resource owners, to ensure that NJ electrical energy consumers receive the same year-round reliability benefits from both demand and generation resources, and to minimize the costs borne by NJ consumers of demand resources to nothing more than that paid for traditional brick and mortar generation capacity.

Staff recommended ratification of the intervention and comments that were filed on February 24, 2014.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

- B. Docket No. EO13111047 – In the Matter of the Petition of Atlantic City Electric Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19 that the Use of Certain Lands Within the Township of Pennsville, Township of Mannington, Township of Pilesgrove, Borough of Woodstown and the Township Upper Pittsgrove, and All in the County of Salem, All in the State of New Jersey, are Reasonably Necessary for the Service, Convenience or Welfare of the Public and that the Zoning and Land Use Ordinances of those Municipalities and Counties Shall have no Application Thereto.**

Thomas Walker, Bureau Chief, Engineering Services, Division of Energy, presented these matters.

**BACKGROUND AND DISCUSSION:** On November 7, 2013, Atlantic City Electric (ACE or Company), filed a petition with the Board, seeking permission to upgrade its electric transmission facilities in order to complete the integration of its Orchard Substation into the Company's transmission system.

The Company represented that all transmission line upgrades would be constructed within existing rights-of-way. ACE proposed that construction commence in August of 2014, in order to meet a targeted in-service date of May 2015.

Staff recommended the Board retain the petition for hearing and designate Commissioner Mary-Anna Holden as the presiding officer. Staff also recommended that Commissioner Holden be authorized to establish and modify schedules, decide all motions, and otherwise control the conduct of this case, without the need for full Board approval, subject to subsequent Board ratification. Furthermore, Staff recommended the Order shall require all parties seeking to intervene to do so by April 11, 2014, so that the matter can be treated expeditiously.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

Jerome May, Director, Division of Energy, presented this matter.

- C. Docket No. GO13060584 – In the Matter of the Petition of South Jersey Gas Company for Approval of a Standard Gas Service Agreement (EGS-LV) and a Standard Gas Service Agreement (EGS-LV) Addendum and to Modify Rate Schedule EGS-LV.**

**BACKGROUND AND DISCUSSION:** On June 28, 2013, South Jersey Gas Company (Petitioner, South Jersey) filed a petition with the Board seeking approval of a modified Standard Gas Service Agreement (Agreement) under Petitioner's Tariff for Gas Service effective October 1, 2013, Electric Generation Service – Large Volume (EGS-LV) Rate Schedule and a Standard Gas Service Agreement EGS-LV Addendum (Addendum) with its customer, TELP-1 (TELP), a Delaware corporation and a subsidiary of Pepco Energy Services, Inc.

South Jersey also requested confidential treatment for the Petition and Agreement. South Jersey filed both a confidential un-redacted copy and a public redacted copy of the Agreement. According to South Jersey, if the reduced rates are made available to the public, South Jersey's competitors will be able to offer similar or lower rates to South Jersey's customers, and thereby unfairly compete with South Jersey. Moreover, if future customers of South Jersey are made aware of the reduced or negotiated rates made available by South Jersey to TELP, those rates will become a "floor" to future customers. Thus, future customers will insist on having available the lowest rate which has been made available to other customers.

TELP is a Delaware corporation and a subsidiary of Pepco Energy Services, Inc. TELP owns and operates what is commonly known as the Midtown Thermal Plant located at 1825 Atlantic Avenue, Atlantic City, New Jersey. The Midtown Thermal Plant provides multiple Atlantic City venues with energy services from a central production facility.

TELP also owns and operates a 5.4 megawatt combined heat and power (CHP) facility located at the Midtown Thermal Plant that provides steam and chilled water to the Claridge Hotel and Casino, Caesar's Hotel and Casino, Bally's Hotel and Casino, Caesar's Pier Shoppes, Trump Plaza Hotel and Casino and Boardwalk Hall in Atlantic City, New Jersey. In addition, the CHP produces electricity used to cover parasitic loads. Any excess electricity not utilized by the facility is sold into the PJM grid at Locational Marginal Pricing on an hourly basis.

On June 1, 2013, TELP and South Jersey entered into a modified Agreement whereby South Jersey agreed to sell and deliver and TELP agreed to purchase and pay for gas delivery service under South Jersey's Rate Schedule EGS-LV for use at the CHP facility.

Pursuant to Special Provision (e) of South Jersey's EGS-LV Rate Schedule, South Jersey may offer a D-1 demand charge and C-3 commodity charge on a negotiated basis so long as the D-1 charge taken in combination with the limited firm C-3 charge, if applicable, is not lower than an amount sufficient to generate a reasonable return on capital investments made by South Jersey and recovery of marginal and embedded costs, including depreciation, to provide service under Rate Schedule EGS-LV. If such an offer is made, it shall be based upon cost of service and value of service considerations including such factors as: (1) proximity of customer to the Company's transmission lines; (2) whether the customer will utilize the Company's interstate pipeline capacity; (3) whether the customer will provide its own gas supply; and (4) other pertinent factors.

Rate Counsel and Staff propounded discovery upon the Petitioner, and all such discovery has been answered. In addition to the many written discovery responses, the Parties also held discovery/settlement conferences in this matter. On March 5, 2014, South Jersey, Rate Counsel, and Staff executed a Stipulation whereby the Parties have resolved issues in this matter.

Staff recommended the Board adopt the Stipulation with an effective date of April 1, 2014.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**D. Docket No. GR13060445 – In the Matter of Public Service Electric and Gas Company’s 2013-2014 Annual Margin Adjustment Charge (MAC) Filing Under Its Periodic Pricing Mechanism.**

**BACKGROUND AND DISCUSSION:** On May 31, 2013, Public Service Electric and Gas Company (PSE&G) filed a petition with the Board requesting a change in its Margin Adjustment Charge (MAC) to firm customers from \$0.0000 per therm to a credit of (\$0.004587) per therm, including sales and use tax (SUT), to be implemented for service rendered on and after October 1, 2013. On October 16, 2013, the Board by Order approved a Stipulation presented by representatives of PSE&G, Rate Counsel and Board Staff (the Parties), for Provisional Margin Adjustment Charge whereby the Board approved Petitioner’s request of a MAC credit of (\$0.004587) per therm including SUT to be effective November 1, 2013.

Following further review of discovery, representatives of the Parties, agreed on March 6, 2014, to stipulate that the MAC rate of (\$0.004587) including SUT shall be deem final.

After review of the Stipulation of the Parties, Staff found it to be reasonable and in the public interest. therefore Staff recommended the Board approve the Stipulation in its entirety.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**E. Docket Nos. GR13060447 and OAL PUC 17630-13 – In the Matter of Public Service Electric and Gas Company’s 2013-2014 Annual BGSS Commodity Charge Filing for Its Residential Gas Customers Under Its Periodic Pricing Mechanism and for Changes in the Tariff for Gas Service B.P.U.N.J. No. 15 Gas Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1.**

**BACKGROUND AND DISCUSSION:** Public Service Electric and Gas Company (PSE&G or Company) filed a petition with the Board on May 31, 2013 seeking to maintain its Basic Gas Supply Service (BGSS) default Commodity Charge for Residential Service (BGSS-RSG) rate at \$0.543979 per therm including losses and sales and use tax (SUT). The Company projected an over-recovered balance of \$78.025 million for the current BGSS year ending September 30, 2013, and an over-recovered balance of \$6.026 million at September 30, 2014.

In addition, the Company and PSE&G Energy Resources and Trade LLC proposed to execute an amendment to the Requirements Contract to provide that the term of the Requirements Contract is extended for an additional term of five years to March 31, 2019 continuing on a year-to-year basis thereafter with a two-year termination notice pending any further regulatory action.

On January 10, 2014, the Company filed revised tariff sheets reflecting the required elimination of the Capital Investment Program 1 Capital Adjustment Charges rates in Docket Nos. ER11090540 and GR11090541. As a result of the filing, the BGSS-RSG Commodity Charge was set at \$0.544051 per therm (including losses and SUT) effective February 1, 2014.

Subsequent to discovery and substantive discussions of the issues, on March 6, 2014 the Parties executed a Stipulation for Final BGSS-RSG rates.

On March 7, 2014, Administrative Law Judge Gail M. Cookson issued an Initial Decision approving the Stipulation finding that the Parties had voluntarily agreed to the terms of the Stipulation and that the Stipulation fully disposes of all matters and is consistent with law.

After review of the Initial Decision and the Stipulation of the Parties, Staff found them to be reasonable and in the public interest, and recommended the Board approve the Initial Decision and Stipulation maintaining the BGSS-RSG commodity rate at \$0.544051 per therm (including losses and SUT).

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**F. Docket No. GO13040272 – In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Concerning Its Proposed Capacity Management Plan.**

**BACKGROUND AND DISCUSSION:** Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company (Company or Elizabethtown) currently purchases the majority of its gas supplies and receives capacity management services from its affiliate, Sequent Energy Marketing L.P. (Sequent) through an agreement that will end on March 31, 2014.

A Stipulation was reached between Elizabethtown, the Division of Rate Counsel and the Board's Staff. This Stipulation will permit the Company to extend its basic arrangement with Sequent for a five-year term subject to contractual modifications. Under the proposed arrangement, Sequent will make annual payments that will include a minimum \$4,250,000 payment to Elizabethtown as well as a sharing component.

Staff recommended the Board approve the Stipulation. The Stipulation will allow Elizabethtown and Sequent to extend their current capacity management and gas supply arrangement under terms that will provide for payments to Elizabethtown for its customers. In addition, the Stipulation provides that Elizabethtown will make a filing with the Board

concerning its asset management and gas supply arrangement on or before April 1, 2018. This allows for a one year period within which the parties can develop a record and the Board can make a determination on the appropriateness of an asset management plan to be effective after March 31, 2019.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**G. Docket No. AX13030196 – In the Matter of the Board’s Establishment of a Generic Proceeding to Review the Prudency of Costs Incurred by New Jersey Utility Companies in Response to Major Storm Events in 2011 and 2012; and**

**Docket No. EO13050391 – In the Matter of the Board’s Review of the Prudency of the Costs Incurred by Jersey Central Power & Light Company in Response to Major storm Events in 2011 and 2012.**

**BACKGROUND AND DISCUSSION:** On March 20, 2013, the Board issued an Order which initiated a generic proceeding to investigate possible avenues to support and protect New Jersey’s utility infrastructure so that it may be better able to withstand the effects of future Major Storm Events. It also invited all regulated utilities to submit detailed proposals for infrastructure upgrades designed to protect the State’s utility infrastructure from future Major Storm Events, and found that all petitions filed in the future should be retained by the Board for review and hearing.

Jersey Central Power & Light filed its petition on June 23, 2013, seeking Board approval to recover, through base rates, all the costs it incurred associated with the 2011 Major Storms (Hurricane Irene and the October Snow Storm), and the 2012 Major Storms (Hurricane Sandy and the November 2012 Nor’easter). These costs are fully summarized in the charts contained in the Stipulation of Settlement.

The parties engaged in settlement discussions starting in December 2013 and on February 24, 2014, executed a Stipulation of Settlement.

Staff recommended the Board approve the Stipulation of Settlement of the Parties.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>



### 3. CABLE TELEVISION

Lawanda Gilbert, Esq., Acting Director, Office of Cable Television, presented these matters.

**A. Docket No. CO13111067 – In the Matter of the Application of Cablevision of Hudson County, LLC to Close a Local Business Office Pursuant to N.J.A.C. 14:18-5.1.**

**BACKGROUND AND DISCUSSION:** On November 8, 2013, Cablevision of Hudson County, LLC (Cablevision) petitioned the Board for permission to close its customer service office located in Hoboken City. The Hoboken office received water damage from Super Storm Sandy on or around October 28, 2012 and has remained closed since that time. Due to the additional risk of flooding at the location, Cablevision stated the facility is unable to be used for equipment storage, and it would be unable to provide equipment replacement and exchange. This Order addresses (i) A request for permission to (permanently) close the Hoboken office located at 360 1<sup>st</sup> Street, Hoboken City, Hudson County, New Jersey 07030 (ii) and the redirection of its customers who used that office to another of its offices located approximately 3.9 mile away at 4800 Broadway, Union City, Hudson County, New Jersey 07087. The Petitioner asserted that the proposed office location, where its customers are currently being redirected, offers identical service, and hours and similar on-street parking.

The Customer Service Representatives from the Hoboken office who once assisted Cablevision walk-in customers with equipment exchanges, taking payments, processing applications for service and handling of complaints have since been relocated to the Union City office. The Petitioner represented that all services once available at the Hoboken office are also available at the Union City location. Cablevision's office hours at its Union City office are 8:00am to 6:30pm Monday – Friday and Saturday from 8:00am to 4:30pm. The hours are the same as the Hoboken office hours when it was open.

No objections were received from the Municipal Officials by the Board regarding the Hoboken office closing, however, the Board's Office of Cable Television received a total of two phone calls from Hoboken Cablevision customers. The two commenters stated that the present office is convenient for paying bills and exchanging equipment in person. Comment were filed by the New Jersey Division of Rate Counsel indicating they had no objection to the petition.

After the review of the petition and supporting documentation, Staff found that the proposed closing and redirection of customers to the proposed Union City office located approximately 3.9 miles away will not adversely affect subscribers in the system. Therefore, Staff recommended the Board grant the Petitioner's request for permission to close its Hoboken office and redirect its subscribers to its existing Union City office.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**B. Docket No. CX14020154 – In the Matter of Regulations of Cable Television Proposed Readoption with Amendments – N.J.A.C. 14:18 and Proposed New Rules – N.J.A.C. 14:18-3.27 and N.J.A.C. -16.8 – Proposal for Notice and Publication.**

**BACKGROUND AND DISCUSSION:** The Board's rules governing regulation of Cable Television providers in New Jersey codified in the New Jersey Administrative Code or N.J.A.C. at Title14, Chapter 18 are due to expire on April 13, 2014. The proposal sought approval for initiation of the rule readoption process. With Board authorization, the rule proposal will be published in the New Jersey Register on April 20, 2014, and will be subject to both a 60-day comment period ending on June 20, 2014 and a public hearing, (date to be determined). Readoption of the rules and adoption of the new rules is anticipated to be completed in the fall of 2014.

The rule proposal represents the result of the open dialogue that Office of Cable Television (OCTV) has kept with the state's cable television operators, the New Jersey Cable Telecommunications Association, Verizon New Jersey, Inc. (Verizon) and the Division of Rate Counsel, who have all submitted written comments on the rules over the course of several years. While some of these comments are addressed in the proposal, many of the proposed amendments have been mandated by the Legislature through changes to the State Cable Act.

**LEGISLATIVE CHANGES**

Included among these legislative changes are:

- The acceptance of electronic filings by the Board from cable television companies;
- The elimination of advanced notice of a price decrease or channel addition that does not affect services or prices, instead requiring notice to be provided on the customer's next bill;
- Allowing cable providers to offer alternate compensation for service outages other than refund or credit. The customer is not required to accept such alternate compensation. In addition, OCTV also added additional protection requiring that a customer opt in to continue receiving any additional services that may have been offered as compensation before the company can continue charging them for such services after the benefit has expired; and
- Allowing cable providers to provide their schedule of prices, rates, terms and conditions on their Internet website, in lieu of providing it to customers or posting it in their local office. Pursuant to the legislation, cable providers who choose to provide their notices on their website must inform customers at least quarterly of how they can obtain a copy of the company's current schedule of prices in either electronic or written form, and will not be required to provide notices to customers in paper form unless specifically requested by the customer.

In addition to the amendments required by legislation, additional changes include allowing greater flexibility for electronic filings for cable operators; and several reductions in existing filing requirements, consistent with the Administration's efforts to ease regulatory burdens and reduce red tape.

## **LOCAL OFFICE RULE**

The proposal also includes a significant amendment to the current office closing rule, N.J.A.C. 14:18-5.1 (c). Currently, the rules require a cable television company that wishes to close or relocate a local office to file a petition for Board approval at least 60 days prior to the closure or relocation. A cable television company is not permitted to close or relocate the office until after Board approval is received. In previous comments to the Board, the cable industry has remarked that the rule makes closing or relocating an office in response to customer demands a lengthy and cumbersome process. They note that approval can take several months and they are required to maintain the local offices even though there are multiple means to satisfy customer needs, including 24-hour customer service, direct shipment of set top boxes, online bill pay and customer service, and thousands of bill payment locations through the state.

In the proposed changes to the rule, the requirement to seek Board approval of local office closings or relocations would be deleted, and companies would only be required to seek prior Board approval if one of the following four conditions is present:

- 1) the office is specifically required under a municipal consent and Board Order;
- 2) the office to be closed or relocated is more than 35 aerial miles away from any other local office;
- 3) the office is to be relocated outside the cable television company's service territory; or
- 4) the office is to be relocated outside of the state of New Jersey.

If none of those four conditions are present, the proposed amendment would allow a cable television company to simply provide 30 day notice to the Board and subscribers of the closure or relocation of a local office in its franchise area. No prior Board or municipal consent approval would be required. This proposed revision streamlines the process while still protecting consumers because they would be notified of any office relocation or closure. In addition, since some local commitments require cable television companies to maintain local offices within specified areas, the Board will continue to receive notice to ensure that all local commitments are being met.

In addition to the readoption of the existing rules with amendments, the proposal also contains two new rules for inclusion in the chapter.

### **14:18-3.27 – ELECTRONIC NOTICE TO CUSTOMERS**

The first proposed new rule sets the parameters that will allow a cable television company to provide required information and notices to customers electronically. Under the rule, customers must affirmatively provide explicit consent to receive such electronic notices; customers may opt out or withdraw the consent to receive notices electronically at any time, and notices of discontinuance are excluded from the rule.

### **14:18-16.8 – VIOLATIONS**

The second proposed new rule sets the parameters under which the Board can assess penalties against cable operators for alleged non-compliance with a Board order or rule. Under the rule:

- Cable operators will receive written notice from the OCTV of any alleged violation, and a written explanation, with specificity, of the proposed penalty for each violation and the

particular Order/rules alleged to have been violated; the company must be provided an opportunity to respond to the notice;

- A reporting or notice violation or one that affects twenty five or fewer customers, as demonstrated by the company, shall not be subject to penalty if the cable television operator cures the alleged violation within 30 days of notice, unless the operator has demonstrated a pattern or practice of willful and repeated violations within three years;
- The penalty may be waived or compromised, based on several mitigating factors the Board/Office must consider when determining the amount of the penalty, including the number of customers affected and any violation of the particular rule within the past three years;
- All enforcement actions must be resolved by the Board/Office within 180 days of the written notice, which may be extended by 90 days by a Board determination of the need for additional time to be in the public interest; however, the 180 day deadline is inapplicable where the cable television operator fails to timely respond to the written notice; and
- All enforcement actions will be limited to a three year look back period.

The proposed new rule provides cable operators with a clearly defined streamlined process for enforcement actions, while still allowing the Board to enforce general customer service standard protections.

The readoption proposal with proposed amendments and proposed new rules provides a balance of the relaxation of certain rules which have been sought by the cable industry, while continuing to protect customers sufficiently.

Staff recommended approval of the readoption proposal with proposed amendments and proposed new rules for publication in the New Jersey Register.

**DECISION:** The Commissioners indicated that customer service is an important aspect of the Board's regulatory authority and it looks forward to receiving the comments to this proposal. After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

#### 4. TELECOMMUNICATIONS

##### A. Docket No. TO12050367 – In the Matter of Lifeline and Link-up Reform.

This matter was deferred

## 5. WATER

Maria L. Moran, Director, Division of Water, presented these matters.

**A. Docket Nos. BPU WR13111038 and OAL PUC 17989-13 – In the Matter of the Petition of New Jersey American Water Company, Inc. for Authorization to Change Levels of Its Purchased Water Adjustment Clause and Purchased Wastewater (Sewerage) Treatment Adjustment Clause.**

**BACKGROUND AND DISCUSSION:** On November 1, 2013, New Jersey American Water (NJAW) filed a petition with the Board for approval to change the levels of its existing Purchased Water Adjustment Clause charge and Purchased Sewerage Treatment Adjustment Clause charges. As a result of settlement discussions, the Signatory Parties have agreed to a total overall stipulated increase of 0.21% above total Company revenues

NJAW purchases water on a routine basis from 12 separate entities and purchases wastewater treatment services from 3 separate entities, each of which adjusts its rates for service, and, in the case of wastewater treatment service providers, issues sewerage deficit/credit adjustments, at different times throughout the year.

Water customers will see an increase of approximately \$0.10 per month in their average bill; while sewer customers in Lakewood will see an average increase of \$0.56 per month; in Ocean City an average decrease of \$0.48 per month; and in Adelphia an average increase of \$1.47 per month for the average bill.

This matter was transmitted to the Office of Administrative Law and assigned to Administrative Law Judge (ALJ) Judge Pelios. Middlesex Water Company filed a motion to intervene with ALJ Pelios. This motion was granted in January.

After proper notice, 4 public hearings were held in NJAW's service territory. They were held in Ocean City and Westampton on February 11, 2014 and in Maplewood and Howell Township on February 12, 2014. The Ocean City hearing had ten members of the public in attendance with approximately five members of the public entering testimony on the record and the Company is scheduling a follow-up meeting later in the spring with the Ocean City Utility Advisory Board to address all of the questions asked at the Ocean City public hearing.

Subsequent to the public hearings and prior to evidentiary hearings, a Stipulation of Settlement was entered into by the Company, Rate Counsel and Staff which comprise the Signatory Parties. Middlesex Water Company, an intervener, did not sign the Stipulation, but, instead, submitted a no objection letter to the Judge.

ALJ Pelios submitted an Initial Decision which recommended that the Board adopt the Stipulation of Settlement of the Signatory Parties.

Staff recommended the Board adopt the Initial Decision which adopts the Settlement of the Signatory Parties for rates to become effective on April 1, 2014.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**B. Docket No. BPU WR1311128 – In the Matter of the Petition of United Water Toms River, Inc. for Approval of a Distribution System Improvement Charge Foundational Filing Pursuant to N.J.A.C. 14:9-10.4.**

**BACKGROUND AND DISCUSSION:** On November 22, 2013, United Water Toms River, Inc. (United Water, Company) filed a Petition with the Board seeking to enable the implementation of a Distribution System Improvement Charge (DSIC). Specifically, the Company requested that the Board approve the Company’s foundational filing pursuant to recover costs associated with DSIC eligible projects through an approved DSIC maximum rate.

United Water services approximately 50,000 general metered water customers throughout portions of Ocean County.

On March 4, 2014, a public hearing was held at the Ocean County Administration Building, located in Toms River, NJ at 5:30 pm. No members of the public were in attendance.

The Company, the Division of Rate Counsel and Board Staff (the Parties) engaged in settlement negotiations and as a result, reached an agreement on the parameters of the foundational filing:

- In accordance with N.J.A.C. 14:9-10.4(c), United Water had its base rates set by Order dated April 29, 2013, in Docket No. WR12090830.
- The Parties recommended the Board find that the Company’s foundational filing satisfies all of the requirements of N.J.A.C. 14:9-10.4(b).
- The Parties recommended the Board find that the projects contained in Exhibit P-1 of the Company’s foundational filing are DSIC eligible projects within the scope and meaning of the definition set forth in N.J.A.C. 14:9-10.2 and are eligible to be included in the Company’s DSIC filings pursuant to N.J.A.C. 14:9-10.5.
- The maximum monthly DSIC rate for a typical 5/8” metered water customer, over the life of the DSIC, as noticed by the Company under the requirements of N.J.A.C. 14:9-10.4(b)(3), would be \$2.29.

Staff recommended the Board adopt the agreement of the Parties which establishes the foundational filing for United Water.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**6. RELIABILITY & SECURITY**

There were no items in this category.

**7. CUSTOMER ASSISTANCE**

**A. Docket Nos. BPU WC13040270U and OAL PUC 09453-13 – In the Matter of Vincent P. Carroll, Petitioner v. United Water New Jersey, Inc., Respondent – Billing Dispute.**

This matter was withdrawn by the Petitioner.

**8. CLEAN ENERGY**

**A. Docket No. QO14010068 – In the Matter of the Petition of the Sierra Club for a Rulemaking on Energy Efficiency Portfolio Standard – Request for Extension.**

Rachel Boylan, Legal Specialist, Counsel’s Office, presented this matter.

**BACKGROUND AND DISCUSSION:** On January 24, 2014, Sierra Club filed a petition for rulemaking on the creation of an Energy Efficiency Portfolio Standard (EEPS). The rules sought would require each electric distribution company and gas distribution company to develop energy efficiency programs to meet the EEPS, and would establish a consistent statewide cost recovery mechanism.

On March 3, 2014, Notice of the petition for rulemaking was published in the New Jersey Register, 46 N.J.R. 461(a). Pursuant to the rules governing petitions for rulemaking, N.J.A.C. 1:30-4.1-4.3, the Board must, within sixty days, either take action upon the petition for rulemaking or refer the matter for further deliberation. N.J.A.C. 1:30-4.2(a)(3).

Taking action within sixty days required the Board to act at its March 19, 2014 agenda. As there would not have been sufficient time for the Board to reach a decision by that date, Staff recommended the Board refer the matter for further deliberation and, as required by the rules, render a decision within ninety days.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**B. Docket No. EO12121067V– In the Matter of the Petition of the Summit Energy Development Group, LLC Extension Request for Solar Renewable Energy Certificate Purchase Sale Agreements with Jersey Central Power & Light Company.**

**William P. Agee, Legal Specialist, Office of the Chief Counsel,** presented this matter.

**BACKGROUND AND DISCUSSION:** Summit Energy Development Group, LLC (Summit or Petitioner) petitioned the Board for extension to complete construction of a solar energy project under the terms of its Purchase and Sale Agreement (PSA) with Jersey Central Power & Light. The one year period provided for project completion expired December 31, 2012.

Summit asserted that it had encountered several weeks of unforeseeable and unavoidable delays due to the impact of Hurricane Sandy and by letter dated January 7, 2013, submitted a request for a six-month extension. The Petitioner submitted a letter to the Board on February 21, 2014 stating it had spent \$13,434.39 to date on the project. However, the Petitioner explained this amount consisted primarily of legal and engineering fees to get township approvals. The Petitioner stated it had not contracted for any materials as it was too risky to do so without the extension. The Petitioner has not documented significant progress toward completion of the project since the signing of the PSA.

Staff found the Petitioner has not met the criteria for an extension, and recommended that the Board deny the extension.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**C. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012;**

**Docket No. EO12090880V – In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87(Q) (R) and (S) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System:**

**Docket No. EO13060563V – True Green Capital/Spano Partners Holding, LLC / North Park Solar, LLC.**

**Babette Tenzer, Deputy Attorney General, Division of Law,** presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved the implementation of Subsection (q) of the Solar Act of 2012, codified in N.J.S.A. 48:3-87 that directs the Board to approve up to 80 megawatts (MW) of proposed grid supply solar energy projects for Energy Years (EY) 2014, 2015 and 2016, that the proposed projects filed a notice of intent to apply with the Board along with the posting of an escrow of \$40,000 per MW of proposed capacity followed



by a completed application. Each project itself may not be in excess of 10 MW of proposed capacity.

North Park Solar filed a timely notice and application for a proposed 7.6 MW project in Millstone Township seeking designation in EY 2014. While an escrow was established on May 15, 2013, it was not funded until May 17, 2013, and the escrow agreement did not specify that the fund was specifically designated to this project as North Park had filed applications for other solar projects as well. Therefore, by Order dated August 21, 2013 (August 21 Order), the Board denied the Millstone application.

On September 6, 2013, North Park filed a Motion for Reconsideration. Because the Board did not timely address that motion, it was deemed denied under the rules. On December 4, 2013, North Park filed an appeal of the August 21 Order, which is currently pending at the Appellate Division. North Park then approached the Division of Law to determine if there was a basis for settlement of the appeal. A Settlement was reached, for the Board's approval, whereby the Millstone project will be reduced to 6.5 MW to fit within the remaining capacity of the 80 MW available in EY 2014. Millstone would comply with all the requirements of Subsection (q), and would enter into a Stipulation of Withdrawal of the pending appeal within 10-days of the effective date on the Board's Order approving the Settlement.

Staff recommended the Board approve the Settlement.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**D. In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$500,000:**

**Docket No. EG14020161 – Verizon New Jersey, Inc.**

**Elizabeth Teng, Office of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved a Commercial and Industrial Large Energy Users Program application submitted by Verizon. The application is for a \$1 million incentive to replace and upgrade several components of an air handling system, as well as upgrades to the lighting system and installation of lighting controls.

The proposed work will be done at Verizon's administration and telecommunications office on 95 William Street in Newark, NJ. Completing these measures would result in over 4.8 million kilowatt hours saved in annual electric usage and an electric demand reduction of 463 kilowatts. This translates to approximately \$558,000 in annual energy cost savings. The project is estimated to cost the customer \$3.6 million to install, and with the incentive, the customer would have a 13% internal rate of return and a simple payback of six and a half years.

Staff determined that this application met the eligibility criteria for commercial and industrial program rebates and recommended that the Board approve this application and authorize the issuance of a standard commitment letter to the applicant.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**E. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012; and**

**Docket No. EO2090862V – In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87 (t) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities;**

**Docket No. QO13111136 – Vanguard Energy Partners, LLC – Industrial Land Reclaiming (LLR) Landfill – Motion for Reconsideration.**

**Megan Lupo, Legal Specialist, Office of the Chief Counsel,** presented this matter.

**BACKGROUND AND DISCUSSION:** On November 19, 2013, Vanguard Energy Partners, LLC (Vanguard) submitted an application to the Board for certification of its proposed 12.063 MWdc solar project as being located on a “properly closed landfill” pursuant to subsection t of the Solar Act. The landfill is owned by Industrial Land Reclaiming (ILR) and located in Edison, New Jersey.

By Order dated January 29, 2014 (January 29 Order), the Board granted conditional certification to Vanguard and found that the project was located on land meeting the definition of a “properly closed landfill.” The Board also found in the January 29 Order that the project had to satisfy New Jersey Department of Environmental Protection’s (NJDEP) requirements and directed ILR to address the existing leachate/groundwater control system and grading for storm water improvements, and to demonstrate to Staff that it has satisfied all NJDEP requirements in order to obtain full certification. The Board directed Staff to issue full certification upon all requirements being satisfied.

On February 12, 2014, Vanguard filed a Motion for Reconsideration of the January 29 Order and requested that the Board grant the project full certification, rather than conditional certification. In the motion, Vanguard argued that, since NJDEP found that the ILR landfill is a “properly closed sanitary landfill facility,” the Board should have considered the project to be “connected to the distribution system” for purposes of qualifying for solar renewable energy certificates.

Vanguard further argued that NJDEP found that remediation of the site had been completed and any issues pertaining to the ground water control system were required to be addressed by ILR as the landfill owner and, accordingly, the Board should have issued full certification.

Staff found nothing in the record that was sufficient to warrant reconsideration or modification of granting Vanguard conditional certification. Therefore, Staff recommended the Board deny Vanguard's motion for reconsideration regarding its request for full certification,

Staff recommended, however, that the Board clarify any confusion of Vanguard's claim that the January 29 Order required Vanguard, rather than ILR, to address impact on the environmental controls and ongoing problems with the leachate/groundwater control system in order to install the proposed project and obtain full certification. Staff also recommended the Board clarify that any operational issues present at the landfill that were previously identified by NJDEP remain the obligation of ILR, the landfill owner, and must be addressed by ILR in its post-closure maintenance and monitoring period. Staff further recommended the Board clarify that any measures required to implement the proposed solar facility are the obligation of Vanguard.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**F. Docket No. EO11050314V – In the Matter of the Petition of Fishermen's Atlantic City Wind Farm, LLC for Approval of the State Waters Project and Authorizing Offshore Wind Renewable Energy Certificates.**

**Marisa Slaten, Deputy Attorney General, Division of Law,** presented this matter.

**BACKGROUND AND DISCUSSION:** By Order dated May 16, 2011 (May 2011), in Docket No. EO11050290V, the Board opened an application window for 30 days for offshore wind (OSW) projects in NJ territorial waters pursuant to N.J.S.A. 48:3-87.2. The Board received one application – the Petition of Fishermen's Atlantic City Windfarm, LLC (FACW, Company or Applicant) dated May 19, 2011 (the Project). An amended application was filed on June 1, 2012, and supplemented on March 8, 2013.

FACW's June 1, 2012 Amended Application materially modified the initial application, requesting the Board consider turbines manufactured by XEMC New Energy and Siemens. The Amended Application also changed the projected output from 59,859 MWh based on a P-90 production estimate to 81,421 megawatt hour (MWH) based on a P50 production estimate.

The day after posting of this matter on the Board's March 19, 2014 Agenda, FACW filed a motion with the Board to reopen the hearing and allow it an opportunity to provide material supplements relating to financial and technical aspects of its application. The standard for this motion is that the applicant must demonstrate there have been material changes of fact or law, or if the Board finds a compelling public interest. Since the oral argument held December 20, 2013, there have been no material changes of facts presented.

Staff recommended the Board deny the motion to reopen the hearing and/or supplement the record.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

FACW proposed an Offshore Wind Renewable Energy Certificate (OREC) price of \$199.17 per MWH, a net present value for 2013. The date of commercial operation would be 2016, extending for 20 years, with a 3.5 percent annual uptick for the OREC price, This assumed FACW would receive \$100 million in federal subsidies including a \$4 million grant that the company has already received, a \$50 million grant that the company has not yet received but is applying for with the U.S. Department of Energy, and an investment tax credit. Boston Pacific did the analysis that included federal subsidies in the OREC price and found that, at a price of \$199 per MWH, the net benefits would be in the range of \$33 million.

The Company indicated it would build the project even if it did not receive the federal subsidies, and that it would take a lower return on investment. However, testimony from March 2013 indicates that if FACW does not receive 100 percent of the federal subsidies, then the actual prices that would be viable is \$263 per MWH, which, with the ratepayer payment over the course of 20 years, is \$240 million. Rate Counsel found that the federal subsidies were too speculative to include in the OREC price, so it calculated the net benefits using a higher price.

FACW indicated that with a \$263 OREC, net economic benefits would range between \$541 million and \$894 million. In contrast, Staff found that it would not result in a benefit, but in a net cost to ratepayers of \$187 million

Although FACW indicated it would fund an escrow account for construction sufficient to demonstrate financial wherewithal to build the project, it did not provide financial statements in U.S. General Account Principals, nor in English, but rather in Mandarin, because its Chinese partner owns 70 percent of the project. The financials were presented under Chinese accounting standards, with translation. This did not allow Staff to conduct a reasonable due diligence concerning financial integrity

Staff recommended the Board deny approval of the project application.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above. Commissioner Fox agreed with the Board's finding that the FACW project did not pass the standard for a qualified OSW facility, but disagreed with the totality of the Boards' reasoning in coming to this conclusion in that the Board conducted its cost benefit analysis without regard to scale, treating small projects, like FACW's, the same as commercial scale projects. Commissioner Fox also stated her belief that a project in state waters near Atlantic City would produce tourism and carbon emissions reduction benefits, but was persuaded that FACW needs to more adequately demonstrate the monetization of tourism, health and environmental benefits.

<b>Roll Call Vote:</b>	<b>President Solomon</b>	<b>Aye</b>
	<b>Commissioner Fox</b>	<b>Concur, with Separate Opinion</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>

**9. MISCELLANEOUS**

There were no items in this category.

There being no further business before the Board, the meeting was adjourned.



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KRISTI IZZO  
BOARD SECRETARY

Date: March 21, 2014