



**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  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

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

A Regular Board meeting of the Board of Public Utilities was held on January 27, 2016, at the New Jersey War Memorial, 1 Memorial Drive, 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:

Richard S. Mroz, President  
\*Joseph L. Fiordaliso, Commissioner  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Upendra J. Chivukula, Commissioner

\*Commissioner Fiordaliso participated by telephone.

President Mroz presided at the meeting and Irene Kim Asbury, Secretary of the Board, carried out the duties of the Secretary.

It was announced that the next regular Board Meeting would be held on February 24, 2016 at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

## CONSENT AGENDA

### I. AUDITS

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

EE15030293L	Progressive Energy	I – EA
EE14121401L	Usource, LLC	I – EA/PA
GE14121402L		
EE15010103L	Prudential Energy Services Corporation	I – EA/EC
GE15010108L		

#### Energy Agent Renewal Registration

EE15030368L	Summit Energy Services, Inc.	R – EA
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#### Electric Power Supplier Initial Licenses

EE15121339L	Sperian Energy Corporation	I – ESL
EE14090973L	Eligo Energy NJ, LLC	I – EGSL
GE14090974L		

#### Electric Power and/or Natural Gas Supplier Renewal Licenses

EE14091025L	NextEra Energy Services New Jersey, LLC	R – ESL
EE15010063L	PBF Power Marketing, LLC	R – ESL
EE15121334L	Direct Energy Business Marketing, LLC	R – EGSL
GE15121335L		
GE14070757L	Constellation NewEnergy–Gas Division, LLC	R – GSL

**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 that the Board issue initial registrations as an energy agent, private aggregator and/or energy consultant for one year to:

- Progressive Energy
- Usource, LLC
- Prudential Energy Services Corporation

In addition, Staff recommended that the following applicant be issued a renewal registration as an energy agent for one year:

- Summit Energy Services Inc.

Staff recommended that the following applicants be issued initial licenses as an electric power and/or natural gas supplier for one year:

- Sperian Energy Corp.
- Eligo Energy NJ, LLC

Lastly, Staff recommended that the following applicants be issued renewal licenses as an electric power and/or natural gas supplier for one year:

- NextEra Energy Services New Jersey, LLC
- Direct Energy Business Marketing, LLC
- PBF Power Marketing LLC
- Constellation NewEnergy – Gas Division, LLC

Staff further recommended approval of the renewal applications of the following electric power supplier and natural gas supplier under the limited waiver program:

- PBF Power Marketing LLC

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

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

## II. ENERGY

**A. Docket No. GR15111304 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval of an Increase in Gas Base Rates and for Changes in Its Tariff for Gas Service, Approval of Safe Program Extension, and Approval of Safe Extension and NJ Rise Rate Recovery Mechanisms Pursuant to N.J.S.A. 48:2-21, 48:2-21.1 and for Changes to Depreciation Rates for Gas Property Pursuant to N.J.S.A. 48:2-18.**

**BACKGROUND:** On November 13, 2015, New Jersey Natural Company (Company) filed a petition with the Board seeking the authority to (1) increase its base tariff rates and charges for gas service; (2) extend its Safety Acceleration and Facility Enhancement Program; (3) implement its New Jersey Reinvestment in System Enhancements and Safety Acceleration and Facility Enhancement extension rate recovery mechanisms; and (4) implement certain other rate and tariff revisions.

The Company sought to implement its proposed rates to become effective for service rendered on or after December 17, 2015, but in no event later than August 17, 2016.

This matter was transmitted to the Office of Administrative Law (OAL). Since this matter is still pending at the OAL, Staff recommended that the Board issue an order suspending the proposed rate increase pending further action on this matter.

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

- B. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – D.C. Cir. Docket Nos. 15-1453 and 15-1455 (consolidated) – In the Matter of PSEG Power, LLC and the PJM Power Providers Group Petitions to the U.S. Court of Appeals for the District of Columbia Circuit for Review of FERC Orders Regarding PJM Proposed Changes to the Variable Resource Requirement Curve and Related Inputs.**

This matter was deferred.

- C. Docket No. ER16010003 - In the Matter of the Federal Energy Items for 2016 – D.C. Cir. Docket Nos. 15-1452 and 15-1454 (consolidated) – In the Matter of NRG Power Marketing, LLC and the PJM Power Providers Group Petitions to the U.S. Court of Appeals for the District of Columbia Circuit for Review of FERC Orders Regarding PJM Proposed Revisions of the Minimum Offer Price Rule.**

This matter was deferred.

- D. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. ER16-532 – PJM Interconnection, LLC, Tariff Filing to Permit the Sell Back of Excess Capacity in the Third Incremental Auction for the 2016/2017 Delivery Year.**

**BACKGROUND:** This matter involved Staff, on behalf of the Board, filing for intervention in this proceeding as an “interested state commission” under Federal Energy Regulatory Commission (FERC) rules of practice. The FERC e-filing rules allow for doc-less interventions, which is how this matter was filed. The purpose of this intervention is to establish the Board as a party to the proceeding.

By filing dated December 15, 2015, PJM petitioned the Commission for approval to amend its Open Access Transmission Tariff to require the release of new capacity, procured through the Capacity Performance 2016/2017 Transition Incremental Auction. The capacity sell-back would occur in the upcoming Third Incremental Auction for Delivery Year 2016/2017, scheduled for February 29, 2016.

Staff concurred with the critique and recommendations relative to the PJM proposal that have been offered by PJM Industrial Customer Coalition / Direct Energy in their January Protest. Staff recommended that the Commission reject of the proposed sell-back of 4,246 MW of excess capacity, without prejudice to a refiling by PJM to include a cost-benefit analysis demonstrating a net benefit to consumers from such sell-back. Staff also urged the Commission to require PJM to submit a proposal for a floor price on any sell-back, assuming that the net benefits test is met.

Staff recommended that the Board ratify this intervention.

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

**E. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. ER16-561 – PJM Interconnection, LLC, Tariff Filing to Provide for CAPS Funding.**

**BACKGROUND:** This matter involved Staff, on behalf of the Board, filing for intervention in this proceeding as an “interested state commission” under Federal Energy Regulatory Commission (FERC) rules of practice. The FERC e-filing rules allow for doc-less interventions, which is how this matter was filed. The purpose of this intervention is to establish the Board as a party to the proceeding.

On December 12, 2015, PJM filed an amendment to its tariff. The purpose of this amendment is to provide a mechanism in the Tariff for funding the organization Consumer Advocates of the PJM States, Inc. (CAPS), a non-profit organization specifically formed to coordinate the participation of State Consumer Advocates in the PJM stakeholder process.

This funding mechanism, which is narrow and targeted only to funding for state-designated consumer advocate offices acting through the CAPS organization, received overwhelming stakeholder support from PJM Members.

Staff recommended that the Board ratify this intervention.

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

**F. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. RP16-314 – Columbia Gas Transmission, LLC, Offer of Settlement and Petition for Approval of Settlement.**

**BACKGROUND:** This matter involved Staff, on behalf of the Board, filing for intervention in this proceeding as an “interested state commission” under Federal Energy Regulatory Commission (FERC) rules of practice. The FERC e-filing rules allow for doc-less interventions, which is how this matter was filed. The purpose of this intervention is to establish the Board as a party to the proceeding.

Columbia Gas Transmission, LLC (Columbia) submitted a filing to the FERC. In this filing, Columbia submitted its Offer of Settlement and Petition for Approval of Settlement (Modernization II Settlement). The Modernization II Settlement represents a collaborative resolution between Columbia and the vast majority of its shippers to preserve and extend the core elements of the 2012 settlement that addressed modernization issues on Columbia’s system.

Staff recommended that the Board ratify this intervention.

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

### III. CABLE TELEVISION

**A. Docket No. CE15040497 – In the Matter of the Petition of Comcast of Plainfield, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the City of Plainfield, County of Union, State of New Jersey.**

**BACKGROUND:** On February 9, 2015, the City of Plainfield (City) granted Comcast of Plainfield, LLC (Comcast) renewal municipal consent for a term of 15 years. On March 23, 2015, Comcast accepted the terms and conditions of the ordinance, and on April 30, 2015, Comcast filed a petition with the Board.

On October 13, 2015, the City amended its ordinance to reflect the correct public, educational and governmental access channels and services to be provided by Comcast. On October 22, 2015, Comcast accepted the amended ordinance, and on December 9, 2015, Comcast filed an amended petition for the City.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the City. This Certificate shall expire on August 3, 2029.

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

**B. Docket No. CE15091034 – In the Matter of the Petition of CSC TKR, LLC d/b/a Cablevision of Raritan Valley for a Renewal Certificate of Approval to Continue to Operate and Maintain a Cable Television System in the Borough of Metuchen, County of Middlesex, State of New Jersey.**

**BACKGROUND:** On February 17, 2015, the Borough of Metuchen (Borough) granted CSC TKR, LLC d/b/a Cablevision of Raritan Valley (Cablevision) renewal municipal consent. On July 7, 2015, Cablevision accepted the terms and conditions of the ordinance, and on September 10, 2015, Cablevision filed a petition with the Board.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the Borough. This Certificate shall expire on February 6, 2031.

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

**C. Docket No. CE15091007 – In the Matter of the Petition of Cablevision of Oakland, LLC for a Renewal Certificate of Approval to Continue to Operate and Maintain a Cable Television System in the Borough of Lincoln Park, County of Morris, State of New Jersey.**

**BACKGROUND:** On December 15, 2014, the Borough of Lincoln Park (Borough) granted Cablevision of Oakland, LLC (Cablevision) renewal municipal consent. On July 9, 2015, Cablevision accepted the terms and conditions of the ordinance, and on September 3, 2015, Cablevision filed a petition with the Board for a renewal of its Certificate of Approval for the Borough.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval. This Certificate shall expire on February 6, 2031.

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

**D. Docket No. CE15060639 – In the Matter of the Petition of Comcast of South Jersey, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Woodbine, County of Cape May, State of New Jersey.**

**BACKGROUND:** On February 5, 2015, the Borough of Woodbine (Borough) adopted an ordinance granting renewal municipal consent to Comcast of South Jersey, LLC (Comcast). On March 3, 2015, Comcast formally accepted the terms and conditions of the ordinance, and on June 1, 2015, Comcast filed with the Board for a renewal of its Certificate of Approval for the Borough.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval. This Certificate shall expire October 31, 2028.

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

**E. Docket No. CE13040309 – In the Matter of the Petition of Comcast of New Jersey, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Manchester, County of Ocean, State of New Jersey.**

**BACKGROUND:** On April 16, 2013, Comcast of New Jersey, LLC (Comcast) filed a petition with the Board for an Automatic Renewal Certificate of Approval for the Township of Manchester (Township), which excludes the Crestwood Villages area, based on the automatic renewal provision, for a term to expire on March 28, 2023.

The Comcast petition is based on the Township's ordinance granting renewal municipal consent which was adopted on September 11, 1997. The Township's ordinance granted a term of 15 years with an automatic renewal term of ten years.

After review, Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire March 28, 2023.

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

#### **IV. TELECOMMUNICATIONS**

**A. Docket No. TF15111323 – In the Matter of the Verified Petition of Level 3 Communications, LLC for Approval to Participate in a Financing Arrangement.**

**BACKGROUND:** Level 3 Communications, Inc. the direct parent of Level 3 Communications LLC (Petitioner or Level 3 LLC) requested Board approval to participate in a financing arrangement in connection with the issuance by Financing of \$900 million in 5.375% Senior Notes due in 2024 (the Senior Notes) in a private offering to qualified institutional buyers that are exempt from registration under U.S. Federal securities laws. Financing has lent the net proceeds it received in the offering of the Senior Notes plus available cash to Level 3 LLC in return for an intercompany demand note issued by Level 3 LLC to Financing in the aggregate amount of \$900 million.

The net effect of the generation of these proceeds along with cash on hand will be used to

redeem all of Financing's outstanding 8.625% senior notes due 2020 and to pay the expenses of the offering. The Petitioner noted that the total amount of debt will not change, and the financing will extend the debt maturity by four years and reduce the annual interest expense by \$29 million.

Level 3 LLC requested approval from the Board to act as a guarantor of the \$900 million Senior Notes issued by Financing. In addition, the Petitioner requested Board approval for the intercompany demand note issued to Financing, in connection with the proceeds of the \$900 million in Senior Notes, to remain unpaid for more than 12 months from the date of issuance.

The Office of the Economist, after review of the information submitted in this proceeding, 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.

## **V. WATER**

There were no items in this category.

## **VI. RELIABILITY & SECURITY**

### **A. Docket Nos. GS15121392K, et al. – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.**

**BACKGROUND:** This matter involved settlements of alleged violations of the Underground Facility Protection Act (the Act) by both excavators and operators of underground facilities. The categories of infraction include failure to provide proper notice, failure to use reasonable care and mismarking of facilities. The cases have been settled in accordance with a penalty strategy which escalates the penalty ranges in relationship to the aggravating factors such as injury, property damage, fire, evacuation, road closure, and other public safety concerns. Moreover, the strategy seeks to establish appropriate disincentives for actions which violate the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. N.J.S.A. 48:2-88. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

The number of settlements are 12 with a total penalty of \$30,000.00.

Staff employed a single order to close multiple cases in order to create a more streamlined and effective enforcement process. Staff recommended that the Board approve all those cases in which offers of settlement and payment have been received.

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



**B. Docket Nos. GS15121399K, et al. – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq.**

**BACKGROUND:** This matter involved settlements of alleged violations of the Underground Facility Protection Act (the Act) by both excavators and operators of underground facilities. The categories of infraction include failure to provide proper notice, failure to use reasonable care and mismarking of facilities. The cases have been settled in accordance with a penalty strategy which escalates the penalty ranges in relationship to the aggravating factors such as injury, property damage, fire, evacuation, road closure, and other public safety concerns. Moreover, the strategy seeks to establish appropriate disincentives for actions which violate the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. N.J.S.A. 48:2-88. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations. N.J.S.A. 48:2-86(c).

The number of settlements are 15 with a total penalty of \$42,000.00.

Staff employed a single order to close multiple cases in order to create a more streamlined and effective enforcement process. Staff recommended that the Board approve all those cases in which offers of settlement and payment have been received.

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

**C. Docket No. GS15121409K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Abner Garcia, Abner's Construction.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment (FOPA) resulting from alleged violations of the Underground Facility Protection Act (Act).

Following reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter, the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as Accepted, and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. N.J.S.A. 48:2-88. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**D. Docket No. GS15121408K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by L&R Landscaping.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment (FOPA), resulting from alleged violations of the Underground Facility Protection Act (Act).

Following reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter, the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as Accepted, and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per

violation per day, with a \$25,000.00 maximum for a related series of violations. N.J.S.A. 48:2-88. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**E. Docket No. GS15121410K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Greg Fondacaro, Ninsa Vinyl Fence.**

**BACKGROUND:** This item involved a Final Orders of Penalty Assessment (FOPA) resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as "Accepted", and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**F. Docket No. AS15121406K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Brian Antram, Apollo Sewer & Plumbing.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as “Accepted”, and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board’s rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. N.J.S.A. 48:2-88. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**G. Docket No. GS15121407K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Jack Porter, Porter Service.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as “Unclaimed”, and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board’s rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**H. Docket No. GS15121403K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Robert Martinez, All Around Home Improvements.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or

properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as "Accepted", and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**I. Docket No. GS15121404K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Patrick Pila, Pila Electric.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The

certified mail was returned to the Board as "Unclaimed", and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**J. Docket No. AS15121412K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Charles Varvaro, Varvaro Site Contractors.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as "Unclaimed", and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for

civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**K. Docket No. CS15121411K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Clint Riley, Princeton Irrigation.**

**BACKGROUND:** This matter involved a Final Orders of Penalty Assessment resulting from alleged violations of the Underground Facility Protection Act (Act).

Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entities involved, investigated the incident, and informed the entities of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator had been sent a Notice of Probable Violation, an Offer of Settlement, and an Answering Certification deadline from the Board. These were sent by regular and certified mail in accordance with the Administrative Procedure Rules. The alleged violator failed to submit the Answering Certification. The certified mail was returned to the Board as "Accepted", and the regular mail was not returned to the Board as undeliverable.

By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff requested the Board issue an order evoking the Board's rights to bring an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violations of the Act.

Pursuant to the Act, the Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000.00.00 and not more than \$2,500.00 per violation per day, with a \$25,000.00 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are



subject to civil penalties not to exceed \$100,000.00 for each violation for each day with a \$1,000,000.00 maximum for any related series of violations.

This Final Orders of Penalty Assessments is for the amount of \$6,000.00.

Staff employed a single order to issue the FOPA in order to create a more streamlined and effective enforcement process.

Staff recommended that the Board approve this Final Order of Penalty Assessment.

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

**VII. CUSTOMER ASSISTANCE**

There were no items in this category.

**VIII. CLEAN ENERGY**

There were no items in this category.

**IX. MISCELLANEOUS**

**A. Approval of the Minutes of the December 16, 2015 Agenda Meeting.**

**BACKGROUND:** Staff presented the minutes of December 16, 2015 Board 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 Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

## AGENDA

### 1. AUDITS

#### A. Docket No. AA15090993 – In the Matter of the Rate Charged by One Call Concepts, Inc. for Operation of the New Jersey One-Call Damage Prevention System.

James P. Giuliano, Director, Division of Reliability and Security, presented this matter.

**BACKGROUND AND DISCUSSION:** Effective November 17, 1994, the Underground Facility Protection Act established a comprehensive “One-Call Damage Prevention System” to reduce the frequency of damage to underground facilities caused by excavation and demolition activity. The Board was given the authority to designate the operator of, and provide policy oversight to, the “One-Call System” and to promulgate any necessary regulations to implement the provisions of the Act.

On February 11, 2015, the Board authorized Staff to issue a Request for Proposal (RFP) soliciting bid proposals for a system operator. The RFP was published in the *New Jersey Register* and was publicly advertised and displayed on the State of New Jersey’s Purchase Bureau website for download. Additionally, e-mail notifications of the upcoming procurement were sent out to vendors registered with the Department of the Treasury.

The Evaluation Committee determined that One Call Concept, Inc. (OCC) bid proposal was the most advantageous for the State, price and other factors considered. On October 15, 2015, the Board selected One Call Concepts, Inc., of Hanover, Maryland, to operate the New Jersey One-Call Damage Prevention System for a five year term beginning March 1, 2016 and ending February 28, 2021.

On December 17, 2015, OCC filed a petition with the Board, seeking approval of a tariff for facilities protection services which includes a rate of \$1.25 per mark-out notification ticket to underground facility operators. The exact amount of this charge is calculated based upon the contract award. The charge is subject to an annual adjustment, up or down, based upon actual revenues received.

In addition to the Contract rate, the Tariff sets forth rates for other permissible services provided by OCC under the Contract. Any revenue from these charges shall be included by OCC when calculating the annual reconciliation as well as any subsequent rate changes and true-ups.

Staff recommended the Board approve the Tariff for a period of one year.

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

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

## 2. ENERGY

Cynthia L. M. Holland, Esq., Legal Specialist, Office of the Chief Counsel, presented these matters.

**A. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket Nos. EL16-6 and ER16-121 – PJM Interconnection, LLC, Tariff Filing and Revisions to the Operating Agreement to Address Certain Revenue Inadequacy Issues Related to the Allocation of Auction Revenue Rights and Financial Transmission Rights.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, filing a Motion for Leave to Answer and Answer to further clarify a mischaracterization of the way portfolio netting is assessed and support the Independent Market Monitor's (IMM's) responses in these dockets. In this Answer, Staff, on behalf of the Board, supports the IMM's contention that elimination of portfolio netting will result in the equal treatment of all Financial Transmission Rights (FTR), regardless of their portfolio status, by eliminating the \$2.85 billion annual subsidy received by negative target allocation holders from positive target allocation holders.

On October 19, 2015, PJM made a filing with the Federal Energy Regulatory Commission seeking to make limited modifications in two rules affecting its Financial Transmission Rights (FTRs) market. PJM reports that the FTR market is no longer experiencing underfunding as the result of several changes, beginning in June 2014, including: (i) a reduction in the number of Auction Revenue Rights Auction Revenue Rights (ARRs) and FTRs issued to market participants and (ii) an improvement in the accuracy of modeling transmission outages in the FTR Model and in the Day-Ahead Market.

PJM proposed additional modifications to the FTR market, designed to further reduce the possibility of future underfunding, namely: (i) eliminate portfolio netting, the netting of net negatively valued FTRs against positively valued FTRs and (ii) employ an added 1.5% growth rate to the 10-year simultaneous feasibility analysis used to determine ARR feasibility, which may accelerate transmission planning upgrades recommended to PJM's Regional Transmission Expansion Plan.

Through the Answers of the IMM and others, Staff became aware of the positive benefits of the elimination of portfolio netting, which is an unnecessary \$2.8 billion annual subsidy. Support for PJM's proposal to eliminate the subsidy came from varied sources ranging from the IMM to Public Service Electric Gas Companies. Staff thus departed from the Maryland PSC by taking a position in support of the elimination of portfolio netting. Federal Energy Regulatory Commission has since ordered a technical conference to address this issue.

Staff recommended that the Board ratify the motion for leave to answer and answer in this proceeding.

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

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

**B. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. ER16-76 – PJM Interconnection, LLC, Section 205(d) Rate Filing to Increase the Offer Cap.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, joining with the Maryland Public Service Commission, Public Power Association of New Jersey, Rockland Electric Company, and the New Jersey Division of Rate Counsel (the Load Group and Interested State Agencies), to file a Motion for Leave to Answer and Answer to the various responsive pleadings of PJM and the Independent Market Monitor regarding the requirement that market participants have *approved* fuel cost policies in place as a prerequisite to submitting offers above \$1,000/MWh.

On October 14, 2015, PJM filed a proposed revision to their Open Access Transmission Tariff that would modify energy market offer cap provisions.

On November 2, 2015, Staff, acting on behalf of the Board, intervened in this matter as an “interested state commission.” Intervention is a procedural step that merely establishes party status in a proceeding at Federal Energy Regulatory Commission. Intervention is a necessary precursor to commenting in a proceeding, if a party wishes to comment.

On November 4, 2015. On that date, Staff, acting on behalf of the Board, filed a protest with the Load Group. The protest challenged that PJM’s filing for the increased offer cap lacks adequate justification, fails to satisfy the just and reasonable standard, contradicts prior PJM positions, and fails to account for imbalances between regions.

Several parties filed supporting comments, notably the market monitors for New York Independent System Operator, Inc., PJM, and Midwest Independent Transmission System Operator, Inc. filed comments against the proposal as drafted by PJM. The New York Transmission Owners also filed comments opposed. Each raised issues that buttressed the arguments in Staff’s initial protest.

Staff recommended that the Board ratify the Motion for Leave to Answer and Answer in this proceeding.

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

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

**C. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket Nos. ER15-2562, ER15-2563, EL15-18-001, EL15-67, EL15-95, ER14-972-003 and ER14-1485-005 – In the Matter of Non-Consolidated Protests and Litigation Regarding the Application of the Solution-Based DFAX Cost Allocation Methodology.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, as well as the New Jersey Division of Rate Counsel filed pre-technical conference comments

in accord with a Federal Energy Regulatory Commission (FERC) notice of conference. The conference arose out of various disputes over the allocation of costs associated with projects constructed in New Jersey for the substantial benefit of others, for example, the Delmarva Peninsula.

On August 28 the Delaware and Maryland Public Service Commissions filed a complaint against PJM requesting that the FERC find that PJM's use of a "solution-based DFAX" to allocate the costs of the "Artificial Island" Regional Transmission Expansion Plan Project (Artificial Island Project) is unjust, unreasonable, and unduly discriminatory and preferential.

On September 10, 2015, Staff, acting on behalf of the Board, intervened in this matter as an "interested state commission." On the same date, FERC granted PJM Transmission Owners' motion to extend the deadline to file answers, interventions, and comments through October 16, 2015.

On October 9, 2015, PJM filed its own answer countenancing the complaint of the Delaware and Maryland Commissions. This has been viewed by various parties as a concession.

On December 4, 2015, FERC issued a Notice of Technical Conference establishing the conference date of January 12, 2016 and allowing for the submission of pre-technical conference comments on January 6, 2016.

Staff recommended that the Board ratify the pre-technical conference comments.

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

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

**D. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. ER16-532 – PJM Interconnection, LLC, Tariff Filing to Permit the Sell Back of Excess Capacity in the Third Incremental Auction for the 2016/2017 Delivery Year.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, filing a Motion for Leave to Answer and Answer in support of a Protest filed by the PJM Industrial Customer Coalition (PJMICC) and Direct Energy. We concur with the Protest, which asks that PJM be directed to conduct a net benefits analysis and quantitatively demonstrate that the sell-back of 4,246 MW of excess capacity provides a net benefit to loads.

By filing dated December 15, 2015, PJM petitioned the Federal Energy Regulatory Commission for approval to amend its Open Access Transmission Tariff (Tariff) to require the release of new capacity, procured through the Capacity Performance (CP) 2016/2017 Transition Incremental Auction (TIA). The capacity sell-back would occur in the upcoming Third Incremental Auction for Delivery Year 2016/2017, scheduled for February 29, 2016.

The requested Tariff amendment would explicitly provide for PJM's sell-back of some 4,246 MW of non-CP, Base Resources, equivalent to the amount of "new, previously uncommitted" excess CP capacity procured through the 2016/2017 TIA.

PJM proposes to release the subject capacity to the Locational Deliverability Areas where the excess capacity was procured. PJM is not at present seeking authority to release any excess capacity acquired for the 2017/2018 delivery year.

PJM Industrial Customer Coalition, and Direct Energy recommended that the Commission reject PJM's proposal on the basis that it has not been demonstrated to be just and reasonable. PJMICC and Direct Energy asserts that the proposed capacity release will in fact "significantly harm the load interests it is designed to protect." In particular, PJM's sell-back of the subject 4,246 MW, on top of the sell-back of substantial additional capacity associated with load forecast corrections, will serve to significantly suppress incremental auction clearing prices and accrue minimal benefit to loads.

Staff concurred with the critique and recommendations relative to the PJM proposal that have been offered by PJMICC and Direct Energy in their January Protest. Staff recommended that the Commission reject of the proposed sell-back of 4,246 MW of excess capacity, without prejudice to a refiling by PJM to include a cost-benefit analysis demonstrating a net benefit to consumers from such sell-back. Staff also urged the Federal Energy Regulatory Commission to require PJM to submit a proposal for a floor price on any sell-back, assuming that the net benefits test is met.

Staff recommended that the Board ratify the Motion for Leave to Answer and Answer.

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

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

**E. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket Nos. ER16-372 and EL15-73 – PJM Interconnection LLC, Tariff Filing and Proposed Revisions to the Operating Agreement to Effectuate Hourly Offers.**

**BACKGROUND AND DISCUSSION:** On May 5, 2014, Duke Energy Corporation (Duke) filed a complaint seeking indemnification from PJM for the costs it incurred to purchase gas during January 2014 and waiver from certain provisions of PJM's Open Access Transmission Tariff (OATT) and Operating Agreement. By Order dated June 9, 2015, the Federal Energy Regulatory Commission (FERC) determined that Duke failed to demonstrate that it was entitled to indemnification from PJM for the costs it incurred to purchase gas on January 27, 2014 under the PJM OATT. The FERC also denied Duke's request for a waiver from various provisions of the PJM OATT as impermissible retroactive relief. However, the FERC found "that aspects of PJM's current tariffs may be unjust, unreasonable, unduly discriminatory or preferential because they do not appear to allow market participants to submit day-ahead offers that vary by hour and do not appear to allow market participants to update their offers in real time, including during emergency

situations.”

In instituting a new proceeding, the FERC specifically recognized the need to “move carefully” in issuing its directive due to “the potentially high costs and impacts on bidding behavior.” The FERC also took note that PJM is currently working on several initiatives with its stakeholders to identify potential solutions to the problems that occurred during January 2014 in the PJM region. Thus, rather than imposing “a sweeping directive, the FERC directed PJM, within 30 days:

Staff believed that the complete PJM Proposal, filed on November 20, 015, far exceeds the FERC’s directive and, consequently, does not constitute a just and reasonable price offer mechanism. Although PJM’s filing will permit improved cost recovery, it will also permit generators to employ market knowledge to effect one-way (i.e., upward) adjustments to their offers. This potential outcome conflicts with the FERC’s more limited “cost recovery” objective; thus, PJM’s proposal should be rejected.

Staff recommended that the Board ratify the Protest, Motion for Leave to Answer and Answer.

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

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

**F. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. EL05-121-009 – In the Matter of the Settlement Proceedings Regarding FERC Order 494 Remand – See Executive Session.**

This matter was discussed in executive session pursuant to attorney-client privilege exception to the Open Public Meetings Act. The Board will make the contents of its discussion of the above matter public at the earliest appropriate time.

**Jerome May, Director, Division of Energy**, presented these matters.

**G. Docket No. ER15040399 – In the Matter of Rockland Electric Company’s Annual Societal Benefits Charge Filing (2015).**

**BACKGROUND AND DISCUSSION:** In accordance with the July 22, 2002 Order of the Board, on April 1, 2015, Rockland Electric Company (RECO) filed its annual cost recovery of over-recovered or under-recovered cost balances collected through its Societal Benefits Charge (SBC) for approval by the Board, and for authorization to collect from customers sufficient funds to provide for current program cost recovery. Accordingly, as described below, the Company filed revisions to the Demand Side Management (DSM) and Clean Energy Program (CEP) components (SBC DSM/CEP Component Programs) of the SBC rate.

In its 2015 Filing, RECO proposed an increase in the rate for the SBC DSM/CEP Component Programs to 0.3286 cents per kilowatt hour (¢/kWh), including Sales and Use

Tax (SUT), which reflected an increase over the previously existing rate of 0.2547 ¢/kWh, including SUT, for all classes of customers effective August 1, 2015 resulting in an SBC rate of 0.6017 ¢/kWh, including SUT.

Since the 2015 Filing, the Board increased the Universal Service Fund rate and decreased the Lifeline rate components of the SBC, and the Company's SBC rate on October 1, 2015 was 0.5503 ¢/kWh, including SUT. The Company also recalculated the DSM and Clean Energy Components of the SBC based on actual data for the period August 1, 2014 through July 31, 2015. As a result of these factors, the SBC DSM/CEP Component Programs of the SBC are increasing to 0.3269 ¢/kWh and the Company's proposed SBC rate is increasing from 0.5503 ¢/kWh to 0.6225 ¢/kWh, including SUT.

The rate includes the actual over-collections of \$586,908 for the period August 1, 2014 through July 31, 2015 and the projected DSM/CEP anticipated spending for the twelve-month period ending July 31, 2016, in the amount of \$5,540,628.00. The Company's recalculation did not propose any changes to the USF and Lifeline rate components of the SBC.

The Board Staff and the New Jersey Division of Rate Counsel (Rate Counsel) propounded numerous discovery requests, which were responded to by the RECO. Representatives of the RECO, Staff and Rate Counsel (collectively, the Parties) engaged in substantive discussions in an attempt to resolve all the outstanding issues and to finalize the Company's SBC charge. As a result of those discussions, on January 8, 2016, the Parties entered into a Stipulation resolving all issues in this proceeding.

As a result of the Stipulation, a typical residential customer with an average monthly usage of 925 kWh will see an increase in their monthly bill of \$0.67 or 0.40%.

Therefore, Staff recommended that the Board approve the Stipulation of the Parties.

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

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

**H. Docket No. ER15121430 – In the Matter of the Provision of Basic Generation Service and Compliance Tariff Filing Reflecting Changes to Schedule 12 Charges in PJM Open Access Transmission Tariff.**

**BACKGROUND AND DISCUSSION:** On December 21, 2015, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company (PSE&G) and Rockland Electric Company (collectively, the EDCs) filed a joint petition with the Board requesting recovery of Federal Energy Regulatory Commission (FERC) approved changes in firm transmission service related charges.

The EDCs' proposed tariff changes reflect changes to the Basic Generation Service (BGS) Residential/Small Commercial Pricing (BGS-RSCP) and Commercial and Industrial Energy Pricing (BGS-CIEP) rates to customers resulting from changes to the PJM Open Access Transmission Tariff (OATT) made in response to (i) the annual formula rate update filing



made by Potomac-Appalachian Transmission Highline, LLC (PATH) in FERC Docket No. ER-08-386-000, (ii) the annual formula rate update filing made by PSE&G in FERC Docket No. ER08-1233, and (iii) the annual formula rate update filing made by Virginia Electric Power Company (VEPCo) in FERC Docket No. ER08-92-000. The EDCs requested that the changes become effective on January 1, 2016.

The EDCs also requested authorization to compensate BGS suppliers for the changes to the OATT resulting from the implementation of the PATH, PSE&G, and VEPCo project annual formula updates subject to the terms and conditions of the applicable Supplier Master Agreement(s) (SMAs). Any difference between the payments to BGS Suppliers and charges to customers would flow through each EDC's BGS Reconciliation Charge.

No comments were received from Rate Counsel or any other party.

Staff recommended that the Board issue an order approving the proposed tariff changes and approving implementation of changes to the EDCs' retail transmission rates to be consistent with OATT tariff changes as filed with and approved by FERC, effective for service as of March 1, 2016. Staff further recommended approval of the EDCs' request that the affected BGS suppliers receive the appropriate compensation for the rate adjustment(s) subject to the terms and conditions of the appropriate BGS-RSCP and BGS-CIEP SMAs.

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

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

**I. Docket Nos. BPU GR15060748 and OAL PUC 16171-15 – In the Matter of the Petition of Public Service Electric and Gas Company to Revise Its Weather Normalization Charge for the 2015/2016 Annual Period.**

**BACKGROUND AND DISCUSSION:** Public Service Electric and Gas Company (Company), New Jersey Division of Rate Counsel, and Board Staff entered into a Settlement for the Final Weather Normalization Charge Rates (WNC) dated December 18, 2015, agreeing that the Company's provisional WNC credit rate of \$0.030144 per balancing term, approved by the Board on September 11, 2015, applicable to Residential Service Gas, General Service Gas and Large Volume Gas Customers, should be determined "final".

Subsequent to Administrative Law Judge Moss issuing her Initial Decision on December 21, 2015, finding that the Settlement was voluntarily agreed to, disposed of all issues in controversy, and was consistent with the law. Staff recommended the Board approve the Initial Decision and Settlement in their entirety.

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

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

**J. Docket Nos. BPU GR15060646 and OAL PUC 14768-15 – In the Matter of Public Service Electric and Gas Company’s 2015/2016 Annual Margin Adjustment Charge Filing Under Its Periodic Pricing Mechanism and for Changes in the Tariff for Gas Service.**

**BACKGROUND AND DISCUSSION:** Public Service Electric and Gas Company (the Company) filed a petition with the Board on June 1, 2015 (June Petition), projecting that, based on actual results through April 2015, the Company’s net Margin Adjustment Charge (MAC) balance including cumulative interest at September 30, 2015 would approximate an over-recovery of \$17.31 million. This translated to a justified increase in the MAC credit rate from 1.1403 cents per therm to a credit rate of 0.7758 cents per therm effective for service on and after October 1, 2015. Based on rates in effect as of June 1, 2015, the Company’s typical residential gas heating customers using 165 therms in a winter month and 1,010 therms annually would experience an increase in their annual bills of \$3.66 (0.40%).

On August 26, 2015, the Company, New Jersey Division of Rate Counsel and Board Staff, (the Parties) executed a Stipulation of Settlement (Settlement) that provided the Company’s proposed MAC credit rate be changed to 0.7758 cents per therm on a provisional basis, with the Board so ordering on September 11, 2015.

Following further review, on December 14, 2015, the Parties agreed that the provisional MAC credit rate of 0.7758 cents per therm be made “final”.

On December 29, 2015, Administrative Law Judge Diana Sukovich issued an Initial Decision approving the Settlement finding that the Parties had voluntarily agreed to the terms of the Settlement and that the Settlement fully disposes of all matters and is consistent with law.

Staff recommended the Board approve the Initial Decision and the 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 Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**K. Docket Nos. ER15070757 and GR15070758 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Changes in Its Electric Green Programs Recovery Charge and Its Gas Green Programs Recovery Charge (2015 PSE&G Green Programs Cost Recovery Filing).**

**BACKGROUND AND DISCUSSION:** On July 2, 2015, Public Service Electric and Gas Company (PSE&G or Company) filed a petition with the Board seeking approval to modify the electric and gas components of the Green Programs Recovery Charge (GPRC). The rates proposed were designed to recover approximately \$63.7 million (electric) and \$9.6 million (gas) in revenues on an annual basis. As filed, the resultant net annual revenue impact on the Company’s electric and gas customers is a decrease of \$47.7 million and

\$8.9 million, respectively.

In August 2015, PSE&G, Board Staff and the New Jersey Division of Rate Counsel (collectively, Parties) executed a stipulation (Stipulation for Provisional Rates) requesting that the Board approve the proposed cumulative decrease in the electric GPRC and gas GPRC on a provisional basis, subject to refund with interest, to allow the Parties sufficient time to complete their review of the petition and the proposed rates and costs. By Order dated September 11, 2015, the Board approved the Stipulation for Provisional Rates. (September 2015 Order)

Subsequently, PSE&G updated the revenue requirement to include actual data through September 30, 2015. The update for actual results through September 30, 2015 resulted in a further revenue decrease to the electric GPRC of \$7.9 million from rates provisionally approved and implemented pursuant to the September 2015 Order. The update for actual results through September 30, 2015 resulted in a further revenue decrease to the gas GPRC of \$1.2 million from rates provisionally approved and implemented in the September 2015 Order.

On January 12, 2016, the Parties executed a Stipulation of Settlement (Settlement) that recommended a reduction of the electric and gas GPRC rates to reflect the updated revenue requirements through September 30, 2015.

Staff recommended that the Board issue an Order accepting the Settlement of the Parties. Staff further recommended that the Board order PSE&G to file tariffs consistent with the Order within five days of service of the order.

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

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

**L. Docket No. ER15060754 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Changes in Its Electric Solar Pilot Recovery Charge for Its Solar Loan I Program.**

**BACKGROUND AND DISCUSSION:** On June 30, 2015, Public Service Electric & Gas Company (PSE&G or the Company) filed a petition with the Board seeking approval to decrease its electric Solar Pilot Recovery Charge (SPRC) by approximately \$4.2 million for the period October 1, 2015 through September 30, 2016. The rates proposed for the SPRC were designed to recover approximately \$2.1 million in revenue on an annual basis.

On August 26, 2015, PSE&G, Board Staff and the New Jersey Division of Rate Counsel (collectively, Parties) executed a Stipulation of Settlement (Stipulation for Provisional Rates) requesting that the Board approve the proposed decrease in the SPRC on a provisional basis, subject to refund with interest, to allow the Parties sufficient time to complete their review of the petition and the proposed rates and costs. By Order date September 11, 2015, the Board approved the Stipulation for Provisional Rates. (September 2015 Order)

Subsequently, PSE&G updated the revenue requirement to include actual data through September 30, 2015. Based on the update, the total revenue to be recovered from ratepayer was reduced to \$1,676,888 based on an estimated revenue requirement of \$7,137,331 and an over-recovered balance of \$5,460,442 through September 2015, including interest.

On January 12, 2016, the Parties executed a stipulation of settlement (Stipulation) that recommended a reduction of the SPRC rate to reflect the updated revenue requirement through September 30, 2015.

Staff recommended that the Board issue an Order accepting the Stipulation of the Parties. Staff further recommended that the Board order PSE&G to file tariffs consistent with the Order within five days of service of the order.

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

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

**M. Docket No. GR15070861 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval of the Cost Recovery Associated with Energy Efficiency Programs.**

**BACKGROUND AND DISCUSSION:** By petition dated July 30, 2015 New Jersey Natural Gas Company (NJNG or Company) filed a petition with the Board, wherein the Company proposed to maintain the Energy Efficiency (EE) Rate of \$0.0327 per therm (including Sales and Use Tax (SUT)), for recovery of the costs associated with NJNG's Energy Efficiency Programs. According to the petition, based on the current and anticipated levels of activity through September 2016 and the projected under-recovered balance of \$0.792 million as of September 30, 2016, NJNG believes that it is beneficial to maintain the current EE Rate. As part of discovery, NJNG updated its revenue requirement to include actual information through September 30, 2015.

The Company, Board Staff and the New Jersey Division of Rate Counsel (collectively, Parties), agreed that the current EE Rate should be maintained at this time. In addition, any costs incurred after October 1, 2015 will be reviewed for reasonableness and prudence in future cost recovery proceedings. Accordingly, on January 4, 2016 the Parties entered in a Stipulation of Settlement (Stipulation).

Staff recommended that the Board issue an order accepting the Stipulation of the Parties. Staff further recommended that the Board order NJNG to file revised tariff sheets conforming to the terms of the Stipulation within five days of service of the Board Order.

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

**Roll Call Vote:**

<b>President Mroz</b>	<b>Aye</b>
<b>Commissioner Fiordaliso</b>	<b>Aye</b>
<b>Commissioner Holden</b>	<b>Aye</b>
<b>Commissioner Solomon</b>	<b>Aye</b>
<b>Commissioner Chivukula</b>	<b>Aye</b>

**N. Docket Nos. BPU ER15050558 and OAL PUC 09345-15 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Changes in Its Electric and Gas Societal Benefits Charge Rates, for a Change in Its Electric Non-Utility Generation Charge Rate.**

**BACKGROUND AND DISCUSSION:** On December 23, 2015, Public Service Electric and Gas Company (the Company), New Jersey Division of Rate Counsel, and Board Staff (the Parties) reached a Stipulation of Settlement (Stipulation) wherein the Company would be authorized to decrease annual electric revenues by \$80.1 million and to decrease annual gas revenues by \$10.7 million.

On May 11, 2015, the Company petitioned the Board for approval of proposed changes in its ELECTRIC Bad Debts, Non-Utility Generation Charge (NGC), and Energy Efficiency (EE) and Renewable Energy (RE) rates, and in its GAS EE&RE rate, collectively yielding an annual revenue reduction of \$90.8 million. Comparisons of the rates currently in effect with those proposed in the May Petition, reflecting actual expenses through December 31, 2014 and estimated expenses through July 31, 2016 are as follows:

Rate and \$000 Changes						
ELECTRIC <sup>▲</sup>					GAS <sup>‡</sup>	
	SBC			Total ELECTRIC	Total	
	NGC	Bad Debt Provision	EE&RE		GAS [EE&RE]	
Current Rates	0.3203	0.1441	0.3260	xxxx	xxxx	2.8276
<b>PROPOSED RATES</b>	<b>0.1744</b>	<b>0.1180</b>	<b>0.3048</b>	xxxx	xxxx	2.4188
Rate (Decreases)	(0.1459)	(0.0261)	(0.0212)	xxxx	xxxx	(0.4088)
KWH Output (000s)	44,364,315	44,364,315	44,364,315			xxxx
Therm Sales (000s)						2,804,896
(Rev.) Change	(\$60,469)	(\$10,825)	(\$8,784)	(\$19,609)	(\$80,078)	(\$10,715)
(Rev. + SUT) Change	(\$64,702)	(\$11,583)	(\$9,399)	(\$20,982)	(\$85,683)	(\$11,465)
	▲ Rates are after-tax ¢ per kwh			‡ Rates are after-tax ¢ per therm		

The Parties agreed to the proposed rates reflected in the above table.

On December 29, 2015, Administrative Law Judge McGill found that the Stipulation was voluntarily agreed upon, consistent with the law, and disposed of all issues in controversy.

Staff found the Stipulation to be reasonable and in the public interest, and recommended Board approval.

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

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

**O. Docket No. AX13030197 – In the Matter of the Board’s Establishment of a Generic Proceeding to Review the Costs, Benefits and Reliability Impacts of Major Storm Event Mitigation Efforts, and;**

**Docket No. ER14030250 – In the Matter of the Verified Petition of Rockland Electric Company for Establishment of a Storm Hardening Surcharge.**

**BACKGROUND AND DISCUSSION:** On March 16, 2015, (Company or RECO) filed its amended and restated petition with the Board seeking approval to implement and administer its Storm Hardening Program (Program) and a related surcharge to permit it to recover the costs of the program. The Company sought approval to spend up to \$61.1 million over five years for Selective Undergrounding, Enhanced Overhead System Construction, Substation Flood Mitigation, Distribution Automation/Smart Grid Expansion, Smart Meters, and Enhanced Vegetation Management.

On January 7, 2014, the New Jersey Division of Rate Counsel, Rockland Electric Company and Staff reached a Stipulation of Settlement (Settlement) that the Company will spend approximately \$15.7 million on capital projects of incremental electric distribution infrastructure and related facilities (RECO Storm Hardening Program or Program) investments, aimed at mitigating the impact of major storms.

The Program is comprised of the following subprograms:

1. \$5,089,900 for Selective Undergrounding (i.e., the West Milford project)
2. \$2,334,200 for Overhead System Construction Projects
3. \$300,000 for Substation Flood Mitigation (i.e., the Muscle Wall System)
4. \$8 million for Distribution Automation/Smart Grid Expansion

The cost recovery mechanism proposed in the Settlement allows the Company rate recovery for all expenditures related to facilities that have been placed in service, but on a provisional basis, subject to refund. These costs will be subject to review in the next base rate case filed by the Company.

Staff recommended the Board approval of the 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 Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**P. Docket No. GO13111049 – In the Matter of the Petition of South Jersey Gas Company for a Determination Pursuant to the Provisions of N.J.S.A. 40:55D-19 – Motion to Stay Order Pending Appeal.**

Paul Flanagan, Executive Director, presented this matter.

**BACKGROUND AND DISCUSSION:** On November 4, 2013, South Jersey Gas Company (SJG or Company) filed a petition with the Board requesting that it issue an order finding that the construction of an approximately twenty-one and sixth-tenths miles, twenty-four inch natural gas pipeline (Project or Pipeline) with an alignment that runs through Maurice River Township in Cumberland County, City of Estell Manor in Atlantic County and Upper Township in Cape May County, New Jersey is reasonably necessary for the service, convenience or welfare of the public and, therefore, the zoning, site plan review and all other municipal land use ordinances and regulations promulgated under the authority of the Municipal Land Use Law shall not apply to the Project.

The Company Pipeline is intended to provide natural gas service to B.L. England power plant (B.L. England) at Beesley's Point in Upper Township and to also increase reliability for customers in Atlantic and Cape May Counties. The Pipeline will be certified for a maximum allowable operating pressure of 700 psig. B.L. England is a 447-MW electrical generation facility with coal, oil and diesel units. The owner of the facility, R.C. Cape May Holdings Corporation, entered into an Administrative Consent Order with the New Jersey Department of Environmental Protection agreeing to repower the facility with natural gas or shut down permanently. There is currently no natural gas line to the facility.

In its petition, SJG stated that Pipeline will be located both within the public right-of-way and in easements across private property. Additionally, a portion of the Project is located in land use management areas in the Pinelands, which are subject to the Pinelands Commission's Comprehensive Management Plan (CMP). According to SJG, the Pipeline will traverse the Pinelands beneath existing paved portions and/or disturbed shoulders of roadways.

The majority of the argument advanced by Pinelands Preservation Alliance (PPA) in the Motion concerns the Project's consistency with the CMP. However, the Pinelands Commission issued a Certificate of Filing (COF) for the Project. On December 14, 2015, the Board received confirmation from the Pinelands Commission's Executive Director that nothing submitted in connection with this proceeding before the Board has changed the Pinelands Commission staff's prior determination in the COF that the Project is consistent with the minimum standards of the CMP.

The New Jersey Division of Rate Counsel and the affected municipalities (Maurice River Township, City of Estell Manor and Upper Township) are the only other parties to this case. No position has been taken on the Motion for Stay by these parties. There are no interveners.

Staff recommended that the Board deny PPA's Motion for Stay Pending Appeal. PPA has failed to meet its burden in demonstrating that it has met the requirements. PPA has not met its burden of proving that it will have a likelihood of success on the merits.

The failure of just one element of the Crowe requirements is sufficient for denial of the stay. Upon denial of the motion for stay pending appeal by this agency, the PPA will be free to

pursue a stay from the Appellate Division if they choose to do so. N.J. Ct. R. 2:9-7.

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

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

**Q. Docket No. BPU EO15030383 – In the Matter of the Petition of Jersey Central Power & Light Company Pursuant to N.J.S.A. 40:55D-19 for a Determination that the Montville-Whippany 230 kV Transmission Project is Reasonably Necessary for the Service, Convenience or Welfare of the Public – Motion for Reconsideration.**

**Bethany Rocque-Romaine, Esq., Legal Specialist, Office of the Chief Counsel,** presented this matter.

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. This matter addressed a Request for Reconsideration of the Board’s October 15, 2015 order which granted Intervenor Montville-Whippany’s (Montville) Request for Interlocutory Review and affirmed the decision of Administrative Law Judge McGee denying Montville’s motion to compel Jersey Central Power & Light Company (JCP&L) to establish an escrow fund for the use of Montville to fund expert fees. Staff presented the factors determined by the court when considering a Request for Reconsideration which include- a party should not seek reconsideration merely based upon dissatisfaction with a decision. Reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis”; or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. The moving party must show that the action was arbitrary, capricious or unreasonable.

Staff stated that after thorough review, none of Montville’s arguments support a finding that the Board based its October 15, 2015 Order upon a “palpably incorrect or irrational basis;” it is not obvious that the Board did not consider, or failed to appreciate, the significance of probative, competent evidence. Nor did Montville provide any arguments or evidence that the Board’s October 15, 2015 Order was arbitrary, capricious or unreasonable. JCP&L and Rate Counsel filed timely replies which made similar arguments stating that Montville did not meet the factors necessary for accepting a request for reconsideration and asked the Board to deny the Request for Reconsideration.

Staff recommended the Board deny the Request for Reconsideration.

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

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



**3. CABLE TELEVISION**

There were no items in this category.

**4. TELECOMMUNICATIONS**

**A. Docket No. TM15121336 – In the Matter of the Application of Verizon New Jersey, Inc. for Approval of the Sale and Conveyance of Real Property Located in the City of Newark, Essex County, New Jersey to Halsey Central Associates, LLC.**

**Lawanda R. Gilbert, Esq., Director, Office of Cable Television & the Office of Telecommunications,** presented this matter.

**BACKGROUND AND DISCUSSION:** On December 4, 2015, Verizon New Jersey (Verizon) filed a petition with the Board for approval of the sale and conveyance of real property located at 540 Broad Street, Newark, New Jersey, to Halsey Central Associates, LLC. The property is not income producing and is 64% vacant. After determining that there was no present or prospective use for the property for utility purposes Verizon engaged the services of a real estate brokerage firm to represent the company in marketing and selling its property. The Property had been previously advertised on five separate occasions, including two sales approved by the Board but later terminated. Verizon entered into a purchase and sale agreement with the buyer on December 1, 2015, contingent upon Board approval. The petition was approved at the Board meeting of January 27, 2016.

Staff recommended that the Board approve the Verizon’s Petition.

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

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

**5. WATER**

**A. Docket No. WF15091086 – In the Matter of the Petition of New Jersey American Water Company, Inc. for Approval of a Financing Program Involving the Refinancing of Existing Long-Term Debt and the Issuance of New Long-Term Debt through December 31, 2018.**

**Mark C. Beyer, Chief Economist,** presented this matter.

**BACKGROUND AND DISCUSSION:** On September 21, 2015, New Jersey American Water Company, Inc. (Petitioner) filed a petition with the Board seeking authority to engage in a transaction or a series of transactions at any time through December 31, 2018, the net results of which will be the issuance of up to \$400,000,000 aggregate principal amount of long-term debt consisting of one or more series of first mortgage bonds, notes, other bonds or other evidences of indebtedness, whether secured or unsecured, fixed rate or variable

rate, tax-exempt or taxable.

The net proceeds of this transaction or series of transactions will be utilized to (a) provide funds for the Petitioner's ongoing utility plant construction program; (b) refinance outstanding long-term debt of the Petitioner as such debt matures or is retired or can be replaced by lower-cost issues; (c) repay short-term debt previously incurred to finance the Petitioner's ongoing capital construction program; (d) provide capital for potential acquisitions, and (e) pay certain issuance costs related to the proposed financings.

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

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

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

## 6. RELIABILITY & SECURITY

### A. Docket No. GE15040402 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4 – Motions for Reconsideration.

Cynthia Covie, Chief Counsel, Counsel's Office, presented this matter.

**BACKGROUND AND DISCUSSION:** On April 2, 2015, as amended on June 5, 2015, New Jersey Natural Gas (NJNG or Company) filed a petition with the Board requesting approval for the installation or operation of natural gas pipelines that are to be operated at pressure in excess of two-hundred fifty pounds per square inch gauge (psig) if located within one-hundred feet of any building intended for human occupancy.

The Burlington County Board of Chosen Freeholders (Burlington County), Township of North Hanover and Township of Chesterfield (Chesterfield) filed motions to intervene in this proceeding. The Township of Plumsted filed a motion to participate, and the Pinelands Preservation Alliance filed a motion to intervene, or in the alternative, to participate in this proceeding. The Board denied the motions to intervene and/or participate on August 19, 2015 (August 19, 2015 Order) on the basis that this matter is deemed an uncontested matter and does not, therefore, warrant intervention. The Board found that the parties have the right to participate in the public hearing process in this case, and the parties also have the right to seek intervention or participation in the related Municipal Land Use Law (MLUL) petition filed by NJNG in connection with this Pipeline, which is, by contrast, deemed a contested case.

On September 3, 2015, the New Jersey Division of Rate Counsel (Rate Counsel) filed a Motion seeking reconsideration of the August 19 Order and consolidation with the related

MLUL case. Rate Counsel subsequently withdrew the Motion for Reconsideration and Consolidation. On September 3, 2015, Burlington County filed correspondence with the Board indicating that it joined in Rate Counsel's Motion to Reconsider and Consolidate. On September 14, 2015, Chesterfield filed a Cross Motion for Reconsideration and Consolidation. NJNG filed opposition to the motions. Accordingly, the matter comes before the Board on the motions of Burlington County and Chesterfield for Reconsideration and Consolidation.

Staff recommended that the Board deny the motions for reconsideration, as the moving parties have not presented any new evidence that would warrant reconsideration of the August 19, 2015 Order. In addition, Staff recommended denial of the request to consolidate the Pipeline Safety and MLUL cases.

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

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

**B. Docket No. GE15040402 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval and Authorization to Construct and Operate the Southern Reliability Link Pursuant to N.J.A.C. 14:7-1.4.**

**Michael Stonack, Bureau Chief, Pipeline Safety, Division of Reliability and Security,** presented the following matter.

**BACKGROUND AND DISCUSSION** - On April 2, 2015, as amended on June 5, 2015, New Jersey Natural Gas Company (NJNG or Company) filed a petition with the Board seeking authorization and approval to construct and operate approximately thirty miles of thirty inch natural gas transmission pipeline (Pipeline or Project) with an alignment that runs through the Townships of Chesterfield and North Hanover in Burlington County; Township of Upper Freehold in Monmouth County; and Townships of Plumsted, Jackson and Manchester in Ocean County.

The proposed Pipeline is needed by Company to provide an alternate major feed to support the delivery of natural gas to customers in Monmouth, Ocean, and a portion of Burlington Counties and maintain system pressure in the event of a supply interruption or system failure in the existing, single feed transmission pipeline supply system.

Board approval is required for natural gas pipelines that are to be operated in excess of 250 psig and located within 100 feet of any building intended for human occupancy. The proposed Pipeline is intended to be operated at a maximum allowable operating pressure of 722 psig and its proposed alignment includes one hundred forty-four structures intended for human occupancy within one hundred feet of the Pipeline, of which 132 are residential and 12 are commercial.

Additionally, a portion of this Project will be located within the Pinelands. The New Jersey Pinelands Commission notified the Company that, pursuant to the Pinelands Comprehensive Management Plan, the completion of the Company's application resulted in

the issuance of a Certificate of Filing.

On June 11, 2015 an open house was held by NJNG at the Upper Elementary School in North Hanover for the public to learn about the Project and review proposed routing. On July 28, 2015, 2 public hearings were held at 3:00 p.m. and 6:00 p.m. at the municipal building in Manchester. A third public hearing was held on August 26, 2015 at Rowan College at Burlington County's Mount Laurel campus in Mount Laurel, New Jersey. Board Commissioner Dianne Solomon presided over the hearings.

The hearings were very well attended. Members of the public expressed opposition to the Pipeline based upon safety implications, such as a risk of explosions and the Pipeline's close proximity to residences, its potential environmental impacts on the Pinelands, climate and groundwater in the region, and asserted that renewable sources of energy should be utilized instead. The Board also received over 1,000 written comments from the public with regard to this Petition. Environmental objections were expressed by the Pinelands Preservation Alliance, New Jersey Sierra Club, and other environmental groups.

Several municipal and county officials in Burlington County expressed concern over the safety aspects of the Pipeline and concern about the safety and quality of life of the residents along the proposed route compared to an alternate route. Municipal and county officials in Monmouth and Ocean Counties expressed support for the Pipeline Project.

Five primary pipeline routes were considered during the NJNG alternative route selection process. Three additional primary routes were considered by Board Staff after the original and amended petitions were submitted. Several variations on the primary alternative routes were also considered by NJNG and Board Staff. The additional primary alternative routes included the possible use of Route 68 and an existing Jersey Central Power & Light electric transmission right of way.

Board Staff reviewed NJNG's proposal including the Project design, construction plans and specifications, the listing of structures within 100 feet of the Pipeline, and also conducted field inspections of the entire proposed Pipeline route, as well as alternative routes. Board staff worked with NJNG on the Pipeline alignment to mitigate the number of human-occupied structures within 100 feet of the Pipeline.

The proposed pipeline will comply with all pipeline safety regulations of the Federal Code and New Jersey Administrative Code. NJNG will have full time inspectors, qualified by training and experience, overseeing the Pipeline construction. Board Staff will conduct Pipeline safety compliance inspections during the construction of this Pipeline, as well as perform future operating and maintenance inspections on it as part of the Board's ongoing Pipeline Safety Program.

Staff recommended the Board approve NJNG's request for authorization to construct the Southern Reliability Link Pipeline Project, subject to all conditions detailed in the Board Order.

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

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

**7. CUSTOMER ASSISTANCE**

There were no items in this category.

**8. CLEAN ENERGY**

**A. Docket No. EO05010001 – In the Matter of a Voluntary Green Power Choice Program – Clean Power Marketer Licensing.**

This matter was deferred.

**Marisa Slaten, Assistant Director, Division of Economic Development & Emerging Issues,** presented these matters.

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

- Docket No. QG15080966 – Walmart Woodbury**
- Docket No. QG15080967 – Walmart Williamstown**
- Docket No. QG15111313 – Credit Suisse.**

**DISCUSSION AND BACKGROUND:** Staff requested approval of three fuel cell applications submitted by Wal-Mart Woodbury, Wal-Mart Williamstown, and Credit Suisse under the Combined Heat and Power (CHP) and Fuel Cell Programs.

For the Wal-Mart Woodbury project at 820 Cooper Street, the applicant will install a 300-kilowatt (kW) fuel cell system for an incentive of \$900,000. The system is expected to generate approximately 2.6 million kilowatt hours (kwh) of electricity per year which will result in average annual energy cost savings of \$178,000. Its estimated project cost is \$3.6 million and payback period of approximately 11.9 years, including incentives.

The Wal-Mart Williamstown project at 1840 South Black Horse Pike consists of one fuel cell with a capacity of 200 kW which will receive an incentive of \$600,000. The fuel cell is expected to produce 1.8 million kWh of electricity per year resulting in an average annual energy cost savings of 95,000 at a project cost of \$2.8 million. The payback period for this project with incentives is 14 years.

The Credit Suisse fuel cell project, located at 700 College Road in Plainsboro, is for a total capacity of 750 kW and incentive of \$2 million under the CHP and Fuel Cells Program. The applicant anticipates annual electric generation of 6.57 million kWh of electricity which will save on average \$140,000 in annual energy costs. The project will cost \$9.7 million with a payback of 16.9 years including the incentive.

Staff determined that these applications have met the eligibility criteria for the Commercial

and Industrial program for fuel cells and recommended that the Board approve these applications and authorize the issuance of the standard commitment letters to the applicants.

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

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>No</b>
	<b>Commissioner Solomon</b>	<b>No</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**C. Docket No. EO09120966 – In the Matter of the Clean Energy Manufacturing Fund (CEMF) – Request for Award Modification.**

**BACKGROUND AND DISCUSSION:** On December 16, 2009, the Board approved an award of \$3.3 million in assistance to Princeton Power Systems, Inc. (PPS), of which \$3 million was in the form of a loan, pursuant to the second public competitive solicitation for the Edison Innovation Clean Energy Manufacturing Fund (CEMF) as recommended by the Economic Development Authority (EDA), the administrator of the CEMF. PPS is now requesting subordination of the loan to allow for an Accounts Receivable Line of Credit of up to \$2,000,000 by Square 1 Bank and the execution of a satisfactory inter-creditor agreement between the Board and Square 1 Bank.

PPS designs and manufactures advanced power conversion products and alternative energy systems for microgrids, electronic vehicle charging stations, energy storage systems and military applications. The company was founded in 2001 by Princeton undergraduate students, based on their patented electronic circuit and software mechanisms to uniquely convert electric power.

Staff reviewed the underwriting analysis and recommendations for approval by the EDA. Based on that analysis, Staff recommended that the Board approve the new indebtedness, approve the subordination of the CEMF loan to Square 1 Bank and enter into a satisfactory intercreditor agreement.

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

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

**D. Docket No. QX15091096 – In the Matter of the Renewable Energy and Energy Efficiency Rules – N.J.A.C. 14:8 – Amendments to Subchapter 8 – Rule Proposal.**

**B. Scott Hunter, Renewable Energy Program Administrator,** presented this matter.

**DISCUSSION AND BACKGROUND:** This matter involved Staff recommending amendments to the Board's Renewable Portfolio Standard (RPS) rules in the New Jersey

Administrative Code. Many of the proposed amendments were prescribed by the Solar Act of 2012. The subsequent law that became Chapter 51 in the statute modified the size of hydropower facilities that are eligible for Class II Renewable Energy Certificates (RECs). The proposed rule amendment incorporates the new Class II definition for hydropower of greater than 3 megawatts (MW) and less than 30 MW. Other RPS proposed changes were based upon staff's experience in implementing the rules, particularly the Solar Renewable Energy Certificate (SREC) registration program. Approximately twenty changes were to either modify existing definitions in the RPS rules or proposed new definitions such as for brownfields, landfills and areas of historic fill as well as concerning resource recovery facilities and true-up periods for RPS compliance.

With respect to qualification life of SREC eligibility, language was added to clarify how the starting date for SREC eligibility is initiated with grid supply projects. Previously, qualification life only had language regarding net metered projects; however new definitions accommodate the growth in the number of grid supply projects, Staff also updated the compliance schedule of the percentage requirements annually and process for calculating the obligation for those years where there were some exemptions to Basic Generation Service providers. The proposed revisions also clarify that SRECs based on energy generated systems installed after the effective date of the law must pay prevailing wage for the construction of the facility with one MW DC or greater.

Staff proposed clarifications that SREC registration is a prerequisite and must occur before construction can occur, language previously included for net metering projects and included again to clarify this also applies to grid supply projects. Requests for extension of SREC registration timelines must come back to the Board for approval if the terms for conditional approval or certification were determined by the Board.

Staff also proposed more substantive changes for additions to the rules to accommodate the Subsection R requirements of the Solar Act. Staff issued a straw proposal, discussed public comments with Renewable Energy stakeholders and made recommendations on how to implement this application review process for Subsection R grid supply projects that take effect with the start of Energy Year 2017 beginning on June 1, 2016. The proposed rules also include administrative processes necessary to address the applications and to enable the Board's review and actions within the statutory deadline.

Staff recommended that the Board approve the rule proposal for delivery to the New Jersey Office of Administrative Law for publication in the New Jersey Register and public comment period in fulfillment of the Administrative Procedures Act.

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

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

**E. Docket No. QO15040477 – In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2016 – Fiscal Year 2016 Second Revised Budget.**

**Marisa Slaten, Assistant Director, Division of Economic Development & Emerging Issues,** presented this matter.

**DISCUSSION AND BACKGROUND:** The Office of Clean Energy proposed changes to the New Jersey Clean Energy Program (NJCEP) budget. Several programs, including the Combined Heat and Power – Fuel Cell (CHP-FC) program have experienced higher than anticipated participation levels since the beginning of the Fiscal Year 2016 (FY16).

Staff recommended reallocation of \$26,953,065.44 among various Commercial and Industrial (C&I) Programs, Renewable Energy Programs, and administrative funds included in the originally approved FY 2016 Programs and Budgets. Staff proposed the transfers of \$19,779,782.69 to the Combined Heat & Power – Fuel Cell program (CHP/FC), \$2,000,000 to the Pay-for-Performance New Construction, \$3,000,000 to the C&I Retrofit program, \$300,000 to extend the Program Coordinator contract, and \$1,873,282.75 for program transition costs. The various sources of these funds were detailed within the Order.

Staff recommended that the Board approve this budget proposal, including funds for the CHP-FC pipeline of \$19.7 million, as well as other modifications.

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

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>No</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**9. MISCELLANEOUS**

There were no items in this category.

**LATE STARTER A**

**CABLE TELEVISION**

**Docket No. CM15070770 – In the Matter of the Petition of Time Warner Cable Inc., Charter Communications, Inc. and Time Warner Cable New York City, LLC, for Approval of the Transfer of Control of Time Warner Cable New York City, LLC and Approval of Transaction Financing;**

**Docket No. TM15070772 – In the Matter of the Verified Petition of Charter Communications, Inc. and Time Warner Cable Inc., for Approval of the Transfer of Control of Time Warner Cable Information Services (New Jersey), LLC and Approval of Transaction Financing; and**

**Docket No. CO15091102 – In the Matter of the Alleged Failure of Time Warner Cable Information Services (New Jersey), LLC to Comply with Certain Provisions of a**



**Board Order and the Alleged Failure of Time Warner Cable New York City LLC to Comply with Certain Provisions of the New Jersey Cable Television Act, N.J.S.A. 48:5a-1 et seq., the New Jersey Administrative Code, N.J.A.C. 14:17-1.1 et seq., and N.J.A.C. 14:18-1.1 et seq., and Certain Provisions of Board Orders.**

These matters were deferred.

## EXECUTIVE SESSION

After appropriate motion, the following matter, which involved pending litigation attorney-client privilege exceptions to the Open Public Meetings Act was discussed in Executive Session.

### 2. ENERGY

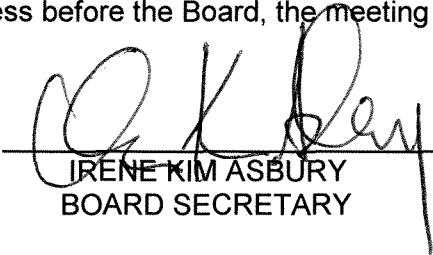
#### **F. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. EL05-121-009 – In the Matter of the Settlement Proceedings Regarding FERC Order 494 Remand.**

The substance of this discussion shall remain confidential except to the extent that making the discussion public is not inconsistent with law.

After appropriate motion, the Board reconvened to Open Session.

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

DATE: 2-24-16

  
IRENE KIM ASBURY  
BOARD SECRETARY