



STATE OF NEW JERSEY
Board of Public Utilities
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**MINUTES OF THE REGULAR MEETING OF THE
BOARD OF PUBLIC UTILITIES**

A Regular Board meeting of the Board of Public Utilities was held on February 24, 2016, at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

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

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

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

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

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 March 18, 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

EE16010078L	Lava Energy, Incorporated	I – EA
EE16010066L	G.A. DiGiovine Consulting, LLC d/b/a Diamond Energy Group	I – EA
EE15050519L	Broadleaf, LLC	I – EA
EE15101113L	Quotenergy, LLC	I – EA/PA/EC
GE15101114L		
EE15050532L	James R. Nelligan & Associates, LLC	I – EA/EC
GE15050533L		
EE15050607L	Make the Switch USA, LLC	I – EA/EC
GE15050608L		

Energy Agent and/or Private Aggregator Renewal Registrations

EE15050526L	Cooperative Industries, LLC	R – EA
EE15050515L	Burton Energy Group, Incorporated	R – EA
EE15060671L	Power Brokers, LLC	R – EA
EE15060667L	Elite Energy Group Incorporated	R – EA
EE15101118L	Achieve Energy Solutions, LLC	R – EA/PA
GE15101119L		

Natural Gas Supplier Renewal License

GE15121351L	Dominion Retail, Incorporated d/b/a Dominion Energy Solutions	R – GSL
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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:

- Lava Energy, Inc.
- G.A. DiGiovine Consulting, LLC d/b/a Diamond Energy Group
- Broadleaf, LLC
- Quotenergy, LLC
- James R. Nelligan & Associates, LLC

- Make the Switch USA, LLC

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

- Cooperative Industries, LLC
- Burton Energy Group, Inc.
- Power Brokers, LLC
- Elite Energy Group Inc.
- Achieve Energy Solutions, LLC

Staff also recommended that the following applicant be issued renewal licenses as a natural gas supplier for one year:

- Dominion Retail, Inc. d/b/a Dominion Energy Solutions

Lastly, Staff recommended approval of the renewal applications of the following renewal applications, energy agents, energy consultants and/or private aggregators under the limited waiver program:

- Cooperative Industries, LLC
- Power Brokers, LLC
- Elite Energy Group Inc.
- Achieve Energy Solutions, LLC

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

II. ENERGY

There were no items in this category.

III. CABLE TELEVISION

A. Docket No. CE10010024 – In the Matter of CSC TKR, LLC for the Conversion to a System-Wide Cable Television Franchise in the Borough of Highland Park.

BACKGROUND: On January 11, 2010, CSC TKR, LLC, filed notice with the Board and the Borough of Allentown (Borough) that it would convert its cable television system serving the Borough to a system-wide cable television franchise. The Board commemorated CSC TKR, LLC's conversion of the Borough by Order dated February 11, 2010. Through subsequent filings, CSC TKR, LLC has converted an additional 32 municipalities.

In the Borough of Highland Park, the franchise was due to expire on February 19, 2019. This municipal consent-based franchise is terminated by virtue of CSC TKR, LLC's conversion to a system-wide cable television franchise.

Cablevision Systems Corporation, the parent company of CSC TKR, LLC, has the potential to hold nine system-wide cable television franchises in the state: Cablevision of

New Jersey, LLC (22 municipalities); Cablevision of Oakland, LLC (51 municipalities); CSC TKR, LLC (62 municipalities); Cablevision of Warwick, LLC (3 municipalities); Cablevision of Rockland/Ramapo, LLC (2 municipalities); Cablevision of Monmouth, LLC (31 municipalities); Cablevision of Hudson County, LLC (5 municipalities); Cablevision of Newark (2 municipalities); and Cablevision of Paterson, LLC (1 municipality).

Cablevision has converted 121 municipalities to system-wide cable television franchises in seven of its systems: 33 in CSC TKR, LLC, with the inclusion of the Borough of Highland Park; 38 municipalities in Cablevision of Oakland; 20 in Cablevision of Monmouth; 21 in Cablevision of New Jersey; five in Cablevision of Hudson County, LLC; two in Cablevision of Newark; one in Cablevision of Paterson, LLC; and one in Cablevision of Rockland/Ramapo, LLC.

The Office of Cable Television & Telecommunications recommended approval of the Seventh Order of Amendment acknowledging the conversion of the Borough of Highland Park into CSC TKR, LLC's system-wide cable television franchise.

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

B. Docket No. CE15111306 – In the Matter of the Petition of Comcast of Northwest 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 Lebanon, County of Hunterdon, State of New Jersey.

BACKGROUND: On September 2, 2015, the Township of Lebanon (Township), after public hearing, adopted a municipal ordinance granting renewal consent to Comcast of Northwest New Jersey, LLC (Comcast). On September 24, 2015, Comcast accepted terms and conditions of the ordinance, and on November 13, 2015, Comcast filed a petition with the Board for its Renewal Certificate of Approval for the Township.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the Township. This Certificate shall expire on April 18, 2030.

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

C. Docket No. CE15111296 – In the Matter of the Petition of Service Electric Cable T.V. of New Jersey, Inc. for a Renewal Certificate of Approval to Own, Operate, Extend and Maintain a Cable Television System in the Township of Lafayette, County of Sussex, State of New Jersey.

BACKGROUND: On September 1, 2015, the Township of Lafayette (Township) granted Service Electric Cable TV of New Jersey, Inc. (Service Electric) renewal municipal consent for a term of 10 years. On September 21, 2015, Service Electric accepted the terms and conditions of the ordinance, and on November 10, 2015, Service Electric filed a petition with the Board for its Renewal Certificate of Approval for the Township.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the Township. This Certificate shall expire on January 11, 2026.

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

IV. TELECOMMUNICATIONS

A. Docket No. TO15121382 – In the Matter of the Application of Verizon New Jersey, Inc. for Talk America Services, LLC for Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

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

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

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

By correspondence dated December 22, 2015, the New Jersey Division of Rate Counsel submitted comments to the Board recommending the Board approve the Agreement subject to specific modifications.

After review, Staff recommended the Board approve the Petitioners' request.

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

B. Docket No. TO15060747 – In the Matter of the Joint Petition of United Telephone Company of New Jersey, Inc., d/b/a CenturyLink and Broadview Networks, Inc. for Approval of a Resale Agreement.

BACKGROUND: This matter related to the Board's approval of a Resale Agreement. By separate letters, United Telephone Company of New Jersey, Inc. d/b/a CenturyLink (CenturyLink) and Broadview Networks, Inc. (collectively, Petitioners) filed an application with the Board, pursuant to Section 252 (e) (1) of the Telecommunications Act of 1996 (Act) for the approval of a negotiated Resale Agreement. The Agreement sets forth the terms, conditions and prices under which the Petitioners will offer and provide network interconnection, call transport and termination, and ancillary services to each other.

Section 252(e) (1), requires that:

Any resale agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

By letter dated February 9, 2016, the New Jersey Division of Rate Counsel submitted comments to the Board indicating that it did not object to Board approval of the Agreement, subject to consideration of specific issues, conditions and recommendations.

After review, Staff recommended approval of the Petitioners' Agreement.

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

C. Docket No. TM16010036 – In the Matter of the Verified Joint Petition of X5 OpCo LLC, Assignee, and CornerStone Telephone Company, LLC, Assignor for Approval for Assignee to Acquire the Assets of Assignor.

BACKGROUND: On January 13, 2016, X5 OpCo LLC (X5 OpCo) and Cornerstone Telephone Company, LLC (CornerStone), (collectively, Petitioners) filed a petition with the Board for approval or such authority as may be necessary to consummate a transaction whereby X5 OpCo would acquire all of the regulated telecommunications assets of CornerStone, including customer accounts, through a mutually negotiated Asset Purchase Agreement (Transaction).

Upon consummation of the Transaction Cornerstone assets, including customer accounts, will be transferred to X5 OpCo, which will become the presubscribed local exchange and interexchange service provider for CornerStone customers and X5 OpCo will file any necessary tariff revisions to incorporate Cornerstone's current services and rates so that customers will continue to receive services under the same terms, rates, and conditions that they currently receive without any immediate changes.

On January 13, 2016, in supplement to its petition, the Petitioners also filed an Application for Waiver of certain provisions of the Board's Mass Migration rules, N.J.A.C. 14:10-12.1 et seq.

By letter dated February 9, 2016, the New Jersey Division of Rate Counsel (Rate Counsel) filed comments indicating that it "does not oppose Board approval of the Petitioners' requests in the Joint Petition." Furthermore, "Rate Counsel does not object to the Petitioners' requests including relaxation, modification and/or waiver of the Board's Mass Migration Rules under the fact-sensitive case herein."

After review, Staff did not find any reason to believe that there will be an adverse impact on rates, competition in New Jersey, the employees of the Petitioners, or on the provision of safe adequate and proper service to New Jersey consumers. Moreover, a positive benefit may be expected from the strengthening of the Petitioner's competitive posture in the telecommunications market. Staff recommended the Board approve the Petitioners' request.

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

V. WATER

A. Docket No. WR16010089 – In the Matter of the Petition of Aqua New Jersey, Inc. for Approval of an Increase in Rates for Water Service and Other Tariff Changes.

BACKGROUND: On January 29, 2016, Aqua New Jersey, Inc. (Petitioner), filed a petition with the Board seeking to increase its rate for water service amounting to approximately \$2,535,564.00 or 6.69% above the annual revenues.

The increase in water rates was proposed to become effective on March 4, 2016. The Petitioner did not seek interim rate relief pending final determination on the petition. This matter was transmitted to the Office of Administrative Law for hearing(s) and once assigned, hearings will proceed accordingly.

Since this proceeding will not be completed by March 4, 2016, an Order suspending the rates until July 4, 2016, is warranted.

After review, Staff recommended that the Board issue an Order suspending the rates until July 4, 2016.

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

VI. RELIABILITY & SECURITY

A. Docket Nos. GS16010011K, 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 26 with a total penalty of \$71,000.00.

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 No. GS16010047K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Michael Mohr, Mohr Masonry, Inc.

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.

C. Docket No. GS16010048K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Walter Lopez, Walter Lopez 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.

D. Docket No. GS16010049K – In the Matter of Alleged Violations of the Underground Facility Act, N.J.S.A. 48:2-73 et seq. by Enzo Porporino.

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. TS16010050K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by John Weithenauer, Irrigation Experts.

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.

F. Docket No. GS16010056K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Walter McCollum, McCollum Mechanical.

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.

G. Docket No. GS16010052 – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Ryan Litton, Murphy Fence.

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.

H. Docket No. GS16010053K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Vincent Stasi, Brunswick Tree Farm.

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.

I. Docket No. GS16010054K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 et seq. by Avalon Hardscape and Landscape.

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.

VII. CUSTOMER ASSISTANCE

A. Docket Nos. BPU EC15050624U and OAL PUC 15084-15 – In the Matter of Mercer County Board of Social Services, Petitioner v. Public Service Electric and Gas Company, Respondent – Billing Dispute.

BACKGROUND: This matter involved a billing dispute between Mercer County Board of Social Services (MCBSS) and Public Service Electric & Gas Company (PSE&G). The petition was transmitted to the Office of Administrative Law on September 17, 2015, as a contested case. Administrative Law Judge (ALJ) Ronald W. Reba filed an Initial Decision in this matter with the Board on January 11, 2016, approving a Stipulation of Settlement (Settlement) of the parties.

Pursuant to the terms of the Settlement, and in order to fully resolve this matter, PSE&G agreed to credit MCBSS's account in the amount of \$25,000.00 on account ending in 8618, leaving an outstanding balance of \$30,148.17. MCBSS agreed to pay the outstanding balance on or before December 31, 2015. On January 19, 2016, Staff was advised by PSE&G that the credit had been applied and MCBSS had made the required payment.

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

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

B. Docket Nos. BPU EC15091085U and OAL PUC 18201-15 – In the Matter of Maria Panzarella, Petitioner v. Public Service Electric and Gas Company, Respondent – Request for Extension.

BACKGROUND: The Initial Decision of the Administrative Law Judge was received by the Board on January 21, 2016, therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on March 7, 2016. Prior to that date, the Board requested an additional 45-day extension of time in order to adequately review the record in this matter, and issuing the Final Decision.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-

18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until April 21, 2016.

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

C. Docket Nos. BPU WC15010045U and OAL PUC 05590-15 – In the Matter of Morie Mussaffa, Petitioner v. Aqua New Jersey, Inc., Respondent – Billing Dispute.

BACKGROUND: This matter involved a billing dispute between Morie Mussaffa (Petitioner) and Aqua New Jersey, Inc. (Aqua). The petition was transmitted to the Office of Administrative Law on April 17, 2015, as a contested case. Administrative Law Judge (ALJ) Ronald W. Reba filed an Initial Decision in this matter with the Board on December 3, 2015, approving a Stipulation of Settlement (Settlement) of the parties.

Pursuant to the terms of the Settlement, and in order to fully resolve this matter, Aqua agreed to waive \$163.00 of the past due amount of \$652.00, and to accept \$163.00 as partial payment towards the past due amount for the Petitioner's account ending in 4106. In addition, the Petitioner agreed to pay 12 monthly payments of \$27.00, plus current charges, to satisfy the full amount due towards his past due balance. The Settlement provides that Petitioner understands and acknowledges that, if the \$163.00 payment is not made, or if the Petitioner does not make the \$27.00 monthly payments, that Aqua New Jersey is entitled to shut off his utility services.

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

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

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

A. Approval of the Minutes of the January 27, 2016 Agenda Meeting.

BACKGROUND: Staff presented the minutes of January 27, 2016 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.

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

AGENDA

1. AUDITS

There were no items in this category.

2. ENERGY

A. Non-docketed Matter – In the Matter of Management Consulting: Oversight of the Board of Public Utilities Basic Generation Service Auction Process – Request for Proposal 12-X-22552 – 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.

B. Docket No. GR15060644 – In the Matter of the Petition of New Jersey Natural Gas Company for the Annual Review and Revision of Its Basic Gas Supply Service and Conservation Incentive Program Factors for Fiscal Year 2016.

BACKGROUND AND DISCUSSION: On February 8, 2016, the New Jersey Natural Gas Company (Company), the New Jersey Division of Rate Counsel and Staff (the Parties) entered into a Stipulation for Final Rates agreeing that the previously approved provisional per therm rates should be made final, namely the:

- 1) Company's Periodic Basic Gas Supply Service rate of \$0.4804;
- 2) Company's balancing charge rate of \$0.0679; and
- 3) following Conservation Incentive Program rates:

- A credit of \$0.0403 for Residential Non-Heat customers;
- A credit of \$0.0224 for Residential Heat customers;
- A charge of \$0.0128 for Small Commercial customers; and
- A charge of \$0.0339 for Large Commercial customers.

On February 9, 2016, Administrative Law Judge (ALJ) Margaret M. Monaco issued her Initial Decision approving the Stipulation of the Parties. Staff recommended that the Board approve the Initial Decision of ALJ Monaco and the Stipulation of the Parties in their entirety.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

C. Docket No. ER15101180 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Electric Base Rate Adjustments Pursuant to the Energy Strong Program.

BACKGROUND AND DISCUSSION: On September 29, 2015, the Public Service Electric and Gas Company's (Company) Energy Strong Program (ES Program) filed a Petition with the Board seeking approval for electric base rate changes tied to capital investments for costs associated with the Company's Electric-ES Program.

On February 5, 2016, the Company, Board Staff and the New Jersey Division of Rate Counsel (the Parties) agreed to a settlement that allows the Company to provisionally recover annual revenue requirements of \$10.382 million pertaining to electric investment tied to actual Electric ES Program costs through November 30, 2015.

The rate adjustments shall be provisional, subject to prudence review in the Company's next base rate case to be filed November 1, 2017, and its subsequent base rate case to the extent there are any Electric ES Program investments, up to \$600 million, not included within the test year of the November 1, 2017 base rate case.

The next electric rate adjustment is scheduled to be filed by March 31, 2016 for rates to be effective September 1, 2016. The next gas rate adjustment is also scheduled to be filed by March 31, 2016 for rates to be effective September 1, 2016. The Company will submit updated filings pertaining to both electric and gas operations by June 15, 2016, presenting actual data through May 31, 2016.

The annual impact of the proposed rates to the typical residential electric customer that uses 750 kilowatt-hours in a summer month and 7,200 kilowatt-hours annually is an increase of \$2.68 (0.21%).

After review of the Settlement of the Parties, Staff found it to be reasonable and in the public interest, and therefore recommended Board approval.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

D. Docket No. GR14050509 – In the Matter of the Petition of South Jersey Gas Company for Approval of an Increase to the Cost Recovery Charge Associated with Energy Efficiency Programs and;

Docket No. GR15060643 – In the Matter of the Petition of South Jersey Gas Company to Revise the Cost Recovery Charge Associated with Energy Efficiency Programs.

BACKGROUND AND DISCUSSION: On May 30, 2014, South Jersey Gas Company (SJG or Company) submitted its fifth annual Energy Efficiency Tracker (EET) cost

recovery filing to the Board seeking approval of the costs associated with its Energy Efficiency Programs (EEPs).

By petition dated June 1, 2015, SJG submitted its sixth annual EET filing to the Board seeking approval to decrease the then current EET rate from \$0.0169 per therm including taxes to \$0.003252 including taxes. By Order dated August 19, 2015, the Board approved a stipulation between SJG, Board Staff and the New Jersey Division of Rate Counsel (collectively, the Parties) further extending certain EEPs offered by SJG.

Pursuant to the August 2015 Order, an initial rate of \$0.004494 per therm including taxes was established for the EEPs approved in the Order. When combined with the then current total EET rate of \$0.0169 per therm including taxes, the total EET rate in effect for use after September 1, 2015 was \$0.021394 per therm including taxes. Accordingly, approval of the 2015 Annual True Up Petition would reflect a decrease to \$0.007746 per therm, including taxes. As part of discovery, SJG updated its revenue requirement to include actual information through September 30, 2015.

The Company, Staff, and the New Jersey Division of Rate Counsel (the Parties) executed a Stipulation of Settlement (Stipulation) that recommended a reduction of the EET rate to \$0.002808 per therm, including taxes, which reflects the updated revenue requirements through September 30, 2015. When combined with the EET III Extension Rate of \$0.004494, including taxes, the Company's total approved EET rate will be \$0.007302 per therm, including taxes.

Staff recommended that the Board issue an order accepting the Stipulation of the Parties. Staff further recommended that the Board order SJG 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:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

E. Docket Nos. BPU GR15060647 and OAL PUC 14767-15 – In the Matter of Public Service Electric and Gas Company's 2015/2016 Annual BGSS Commodity Charge Filing for Its Residential Gas Customers Under Its Periodic Pricing Mechanism and for Changes in Its Balancing Charge.

BACKGROUND AND DISCUSSION: On June 1, 2015, Public Service Electric and Gas Company (the Company) filed a petition with the Board requesting a decrease in its Basic Gas Supply Service (BGSS) default commodity rate for Residential Service from 45.1880 cents per therm to 40.1235 cents per therm and a decrease in its Balancing Charge from 9.5957 cents per therm to 9.3827 cents per therm, tied to the Company's projection of a \$65.0 million decrease in BGSS revenues needed to recover its costs for BGSS service during the 2015-2016 BGSS year.

A Stipulation providing for the provisional BGSS commodity rate of 40.1235 cents per therm and the Balancing Charge of 9.3827 cents per therm were approved by the Board in its Order dated September 11, 2015.

On February 18, 2016, Administrative Law Judge Diana Sukovich issued her Initial Decision (ID) approving the Stipulation that called for the 40.1235 cents per therm Residential Service (RSG) commodity rate and for the 9.3827 cents per therm Balancing Charge to remain in effect and deemed “final”.

After review of the ID and the Stipulation of the Parties, Staff found them to be reasonable and in the public interest, and recommended Board approval of the Initial Decision and the Stipulation.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

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

F. 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 with the Board 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’s (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.

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,” thereby not imposing a sweeping directive.

Staff believed that the complete PJM Proposal, filed on November 20, 2015, 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.

Since those filings were made, PJM has filed an Answer dismissing critiques of its own proposal, dismissing the alternative Market Monitor proposal, and claiming that it appropriately adopted a minimalist approach to implementing FERC's directives.

Staff, on behalf of the Board, and joined by coalition, filed a Motion for Leave to Answer and Answer to PJM's filing. Upon review of all of these filings, FERC has issued PJM a Deficiency Notice requiring PJM's response to a variety of questions about its proposal, including concerns raised by Staff. Therefore, Staff recommended that the Board ratify the Motion for Leave to Answer and Answer in these dockets.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

G. 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 along with the Pennsylvania Public Utility Commission, Maryland Public Service Commission, and the Public Power Association of New Jersey. In this Answer, Staff questioned whether the record can support Federal Energy Regulatory Commission's (FERC) approval of the proposed sell back of 4,246 MW of excess capacity when PJM has stated that it is unable to perform a study that confirms PJM's claim that the sell-back will provide a net benefit to loads.

By filing dated December 15, 2015, PJM petitioned the FERC 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.

In their January Protest, the PJM Industrial Customer Coalition and Direct Energy Business Marketing, LLC (PJMICC/Direct Energy) recommended that the FERC reject PJM's proposal on the basis that it has not been demonstrated to be just and reasonable. PJMICC/Direct Energy asserted 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 PJM/Direct Energy in their January Protest. Staff recommended that the FERC reject of the proposed sell-back of 4,246 MW of excess capacity, without prejudice to a re-filing by PJM to include a cost-benefit analysis demonstrating a net benefit to consumers from such sell-back. Staff also urged the FERC to require PJM to submit a proposal for a floor price on any sell-back, assuming that the net benefits test is met.

Staff, on behalf of the Board, filed an additional Answer in this proceeding. Of particular concern to Staff was PJM's unwillingness to substantiate its claim of benefits to load in the face of a challenge thereto. PJM/Direct Energy has demonstrated that the benefits to load may not be as obvious as PJM claims. If PJM cannot respond to the challenge raised by PJM/Direct Energy, Staff questioned how FERC could approve PJM's filing.

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

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

H. Docket No. ER16010003 – In the Matter of the Federal Energy Items for 2016 – FERC Docket No. RM15-23-000 – FERC Rulemaking on Collection of Connected Entity Data From Regional Transmission Organizations and Independent System Operators.

BACKGROUND AND DISCUSSION: This matter involved Staff, acting on behalf of the Board, filing comments on a Notice of Proposed Rulemaking (NOPR) published in the September 29, 2015, Federal Register, regarding the collection of information identifying “Connected Entities” participating in the electric markets. Federal Energy Regulatory Commission (FERC) indicated a strong desire to hear from State commissions on this issue. Staff circulated the comments to the Organization of PJM States and were joined by the Maryland Public Service Commission in our comments.

In its Order of September 17, 2015, the FERC issued the subject NOPR to amend its regulations to require each regional transmission organization (RTO) and independent system operator to electronically deliver to the Commission, on an ongoing basis, data required from its market participants that would: (i) identify the market participants by means of a common alpha-numeric identifier; (ii) list their Connected Entities, which includes entities that have certain ownership, employment, debt, or contractual relationships to the market participants, as specified in the NOPR; and to (iii) describe in brief the nature of the relationship of each Connected Entity.

The NOPR stated the information is being sought to assist the FERC in its screening

and investigative efforts to detect market manipulation, an enforcement priority of the FERC.

Staff recommended that the Board ratify the comments.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

I. **Docket No. EM15060733 – In the Matter of the Verified Petition of Jersey Central Power & Light Company and Mid-Atlantic Interstate Transmission, LLC for: (1) Approval of the Transfer of JCP&L’s Transmission Assets to MAIT Pursuant to N.J.S.A. 48:3-7; (2) Approval of a Lease of JCP&L’s Real Property and the Real Property Rights Associated with Its Transmission Assets to MAIT Pursuant to N.J.S.A. 48:3-7; (3) Approval of a Mutual Assistance Agreement Pursuant to N.J.S.A. 48:3-7.1; and (4) a Declaration that MAIT will be Deemed a Public Utility for, *inter alia*, the Purposes of Siting Authority Under N.J.S.A. 40:55D-19 and Eminent Domain Authority Pursuant to N.J.S.A. 48:3-17.6 et seq.; and;**

Docket No. EF02030185 – In the Matter of the Verified Petition of Jersey Central Power & Light Company for Authorization Pursuant to N.J.S.A. 48:3-7.2 for Approval to Participate in the FirstEnergy Corp. Intrasystem Money Pool.

Cynthia Covie, Chief Counsel, Counsel’s Office and Geoffrey Gersten, Deputy Attorney General, Division of Law, presented this matter.

BACKGROUND AND DISCUSSION: Chief Counsel Cynthia Covie reviewed the case background. On June 19, 2015, Jersey Central Power & Light (JCP&L) and the Mid-Atlantic Interstate Transmission (MAIT) (Joint Petitioners) requested the Board grant the seven actions, including declaring that MAIT be deemed a New Jersey “public utility” subject to the Board’s jurisdiction for certain, limited purposes and enjoying the rights and privileges of a public utility. By Order dated August 19, 2015, the Board retained this matter, and designated President Richard S. Mroz as Presiding Officer. President Mroz issued a pre-hearing/procedural schedule on October 7, 2015. On October 19, 2015, President Mroz granted intervener status to Public Service Electric and Gas Company (PSE&G) and the New Jersey Large Energy Users Coalition (NJLEUC), and participant status to Rockland Electric Company (RECO) and Atlantic City Electric Company (ACE). On December 4, 2015, a discovery/settlement conference was held with the parties, and interveners, with Cynthia Covie, Paul Flanagan and legal and energy staff present. Whether or not MAIT could legally qualify as a NJ “public utility” issue was discussed. On December 7, 2015, New Jersey Division of Rate Counsel (Rate Counsel) filed a motion asking for a briefing schedule to resolve the “public utility” status for MAIT and requested a stay on the procedural schedule, particularly Rate Counsel’s testimony filing deadline of December 11, 2015, pending a Board decision resolving this issue.

On December 8, 2015, the Joint Petitioners filed opposition to the Rate Counsel Motion seeking denial, or in the alternative, expedited treatment of this issue if the Rate Counsel Motion was to be heard. On December 9, 2015, President Mroz notified the parties of the suspension of the procedural schedule and directed any other responses to the Rate Counsel Motion be filed by close of business on December 18, 2015. No additional responses were received. After reviewing the Rate Counsel Motion and Joint Petitioners' response, and considering the complexity and critical nature of this issue and the importance of resolving this issue expeditiously, President Mroz ordered the Parties to file initial briefs on the issue of whether MAIT can qualify as a "public utility" under New Jersey law. President Mroz also ordered that the issue be decided by the Board *en banc* at a regularly scheduled Board Agenda meeting.

Deputy Attorney General Geoffrey Gersten provided the legal analysis for staff's recommendation. The matter before this Board is limited to determining the one issue of whether or not MAIT can be a public utility under New Jersey law and how the Board should proceed.

The Joint Petitioners offered multiple arguments that MAIT will be operating its equipment for public use and the assets will be for an electric distribution system, since all parts of the electric grid, including both the assets classified as distribution and those assets classified as transmission for regulating purposes are necessary to provide electric service to its customers. They further contend that the interpretation of electric distribution system is supported by N.J.S.A. 48:2-13.

A New Jersey public utility is defined, under N.J.S.A. 48:2-13(a), "as every individual, co-partnership, ... that now or hereafter may own, operate, manage or control within this State any...electricity distribution... system, plant, or equipment for public use..." Joint petitioners also point to N.J.S.A. 48:2-13(d) which discusses the jurisdiction of the Board to continue over distribution and transmission functions.

Rate Counsel argued that MAIT cannot be a public utility under New Jersey law. It specifically pointed to the same Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA) definition of public utility cited by the Joint Petitioners, N.J.S.A. 48:2-13(a), stressing that a public utility is an entity that "...may own, operate, manage or control ... any...electricity distribution system, plant, or equipment ..." Prior to EDECA, that definition covered electric, light, and power. The definition was amended under EDECA. At the same time the definition of a public utility was amended, N.J.S.A. 48:2-13(d) was added to continue the Board's jurisdiction over distribution and transmission assets. Rate Counsel's argument stressed that since MAIT was formed to own solely transmission assets and not distribution assets, MAIT clearly does not fit within the definition of public utility after EDECA.

While Rate Counsel recognized that the Board's jurisdiction covers distribution and transmission assets under N.J.S.A. 48:2-13(d), it points to the definition under N.J.S.A. 48:2-13 (a) as being the controlling factor in the review of this issue. Rate Counsel argued that the principles of statutory construction call for first considering the statutory language, and as the statute is clear on its face, it should be read with only one interpretation, and the Board need not delve any deeper into the statute. Rate Counsel further pointed out that while distribution and transmission are referenced in N.J.S.A.

48:2-13(d) and N.J.S.A. 48:2-51, the N.J. Legislature specifically did not include the word transmission into N.J.S.A. 48:2-13(a) when modifying the definition of a public utility.

Joint Petitioners countered that the overarching purpose of EDECA was to deregulate electric generation and unbundle electric distribution transmission and generation charges. Joint Petitioners argued that Rate Counsel's analysis of N.J.S.A. 48:2-13 (a) [sic] is wrong because the statute does not limit the definition in the way that Rate Counsel reads it. Joint Petitioners also argue that Rate Counsel failed to recognize the reference to the Board's jurisdiction contained in section N.J.S.A. 48:2-13 (d).

Staff's analysis fully outlines the issues of distribution and transmission, specifically that while distribution and transmission are discussed in EDECA, these issues relate back to how regulation of power has occurred both in New Jersey and federally over the last 80 years. However, the Board's analysis of New Jersey law is guided by principles of statutory construction, the goal of which is to effectuate legislative intent in light of the language used and the objects sought to be achieved. Words and phrases shall be readily construed within their context and shall, unless inconsistent with the intent of the legislature, or unless another or different meaning is expressly indicated, and shall be given their generally accepted meaning. For this specific issue, the Legislature defined the term public utility in Title 48. Pursuant to N.J.S.A. 48:2-13(a), as amended by EDECA, a public utility is an entity "that now and hereafter may own, operate, manage, or control within the state any electric distribution system, plant, or equipment..." In the electric power industry, the words transmission and distribution have well-understood meanings. Reviewing legislative history, under the initial passage of the State Power Act, the terms transmission and distribution were used to distinguish FERC jurisdiction from state jurisdiction.

In Order 888, Federal Energy Regulatory Commission (FERC) established a seven-factor test for determining what facilities are transmission, subject to FERC's exclusive jurisdiction, and what facilities are local distribution, subject to the exclusive jurisdiction of the Board. Joint Petitioner's position reads the term "electricity distribution" in N.J.S.A. 48:2-13(a) to have the same, or essentially similar, meaning as transmission and distribution under N.J.S.A. 48:3-51. Staff does not agree, but concurs with Rate Counsel, that when the Legislature has carefully employed the term in one place and excluded it in another, it should not be implied where excluded.

Staff recommended that the Board read the language of N.J.S.A. 48:2-13(a) in harmony with the other definitions under EDECA, emphasizing that the recognition of the Board's continued jurisdiction over distribution and transmission lines at N.J.S.A. 48:2-13(d) does not alter the definition of N.J.S.A. 48:2-13(a). As to this EDECA statutory addition, N.J.S.A. 48:2-13 (d) expressly provides that the Board will retain jurisdiction over all services necessary for the *transmission and distribution* of electricity. That the Board retains this jurisdiction, as it does in other areas, does not make all entities that have electric transmission a public utility.

Staff recommended that the Board determine that MAIT would not satisfy the electric distribution element necessary for public utility status, as MAIT would not satisfy that portion of the definition. Staff does not believe that the Board proceed further in analyzing whether or not MAIT would otherwise satisfy the elements of a public utility in New Jersey.

Staff recommended that the Board adopt, in their entirety, all preliminary Orders issued to date by President Mroz during the pendency of this matter, and staff recommended that the Board order state that the matter proceed in accordance with an amended procedural schedule set by Presiding Commissioner President Mroz.

The matter was moved by Commissioner Fiordaliso and seconded by Commissioner Holden.

President Mroz asked DAG Gersten to clarify that this was staff's recommendation and that he concurred, as a legal matter, with the legal advice as to the interpretation of the statute and the recommendation.

DAG Gersten concurred in staff's recommendation with regard to what advice that attorney general's office has and will provide.

President Mroz continued by asking for confirmation that with this individual issue resolved, the Joint Petitioners can proceed to present its case and application to otherwise transfer or create or whatever the other relief that was requested to continue the Board's consideration of the Joint Petitioners request to create this separate entity. DAG Gersten confirmed that the Joint Petitioners can proceed with their application.

President Mroz thanked DAG Gersten for the review of the legal advice and legal standards by which the interpretation should be taken, specifically to determine plain reading of the statute, as DAG Gersten outlined, the language is fairly clear. The bottom line is that the statute contemplated, as suggested in the legislative history of EDECA, a public utility could be an electric company that holds distribution assets only or has distribution assets, as well as transmission assets, but does not contemplate a transmission-only company as being a public utility.

DAG Gersten agreed with this summary of the advice given and standards employed and added that this advice, and the standard used, is different than the FERC standard, or any standard used by any other state as this advice pertains to New Jersey law and the definition of public utility revised under EDECA.

After continued discussion, and statements by Commissioner Fiordaliso and Commissioner Chivukula, the motion was clarified to include ratification of all preliminary Orders entered to date by President Mroz as Presiding Officer, as well as adoption of the recommendation that MAIT, as proposed in the petition, was not a "public utility" under New Jersey law.

DECISION: The Board adopted the recommendation of Staff as set forth above and ratified the Orders entered to date by President Mroz.

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

3. CABLE TELEVISION

Lawanda R. Gilbert, Esq., Director, Office of Cable Television & the Office of Telecommunications, presented these matters.

A. 1. 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;

BACKGROUND AND DISCUSSION: Time Warner Cable Information Services (New Jersey), LLC (TWCIS), an indirect subsidiary of Time Warner Cable Inc. (TWC), is a telecommunications provider subject to the jurisdiction of the Board. Time Warner Cable New York City, LLC (TWCNY), also an indirect subsidiary of TWC, owns and operates a cable television system in New Jersey.

The Office of Cable Television & Telecommunications (OCTV&T or Office) uncovered a number of apparent deficiencies during the course of a compliance review conducted as part of its review of a pending petition, wherein Charter Communications, Inc. (Charter), TWC, and TWCNY sought approval of the transfer of control of TWCNY, an indirect subsidiary of TWC to a subsidiary of Charter, CCH I, LLC (New Charter). The Office served notice of its allegations that TWCIS did not conform to certain provisions of the New Jersey Public Utilities Act and TWCNY did not conform to certain provisions of the New Jersey Cable Television Act and the New Jersey Administrative Code.

As a result of correspondence, telephone conversations and settlement conferences between TWCIS, TWCNY and the OCTV&T, TWCIS and TWCNY, on February 22, 2016, submitted an Offer of Settlement (Offer) concerning the alleged non-conforming practices including a monetary payment in the amount of \$300,000.00 in order to resolve all issues concerning the violations alleged by the Office.

Staff reviewed the matter, and found that the Offer represented a reasonable settlement in view of the alleged violations. Therefore, Staff recommended that the Board accept the Offer of Settlement proffered by TWCIS and TWCNY subject to certain provisions, conditions and/or limitations.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

2. **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**
3. **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.**

BACKGROUND AND DISCUSSION: Items 3A-2 and 3A-3 involved Staff's recommendations regarding a Stipulation of Settlement that would resolve both of these petitions which sought Board approval of a pending merger between Time Warner Cable and Charter Communications, as well as the accompanying financing.

Time Warner Cable and Charter Communications, Inc. (Charter) filed petitions with the Board in July 2015 requesting approval of the transfer of both their cable television and telecommunications entities of Time Warner Cable which operate in New Jersey.

Item 3A-2, Docket TM15070772 requested authority for the transfer of Time Warner Cable's telecommunications affiliate, Time Warner Cable Information Services, or TWCIS, as well as the accompanied financing regarding that entity.

Item 3A-3, requested approval of the transfer of Time Warner Cable's cable television affiliate, which is Time Warner Cable New York City, or TWCNYC, and requested approval for the transfer of control of the cable affiliate and the associate financing with that. Time Warner Cable NYC is the cable telecommunications authorized provider in New Jersey that serves approximately 30,000 subscribers located in 14 towns primarily in Bergen County.

Following filing of both of these petitions, Board Staff, as well as the New Jersey Division of Rate Counsel (Rate Counsel), conducted extensive discovery and subsequently the petitioners engaged in settlement discussions with Staff and Rate Counsel with regard to the benefits that would be provided by Charter and Time Warner as a result of the proposed transaction.

Following the numerous meetings and discussions, the petitioners, Board Staff and Rate Counsel were able to reach consensus on the issues and executed a stipulation of Settlement (Stipulation).

The Stipulation concurs with the Petitioners' assertions in both petitions that the transaction meets the necessary statutory requirements for Board review of transfer and control of cable television and telecommunications companies. The statutory criteria for approval of petitions involving acquisitions of control of a New Jersey cable television company, as set forth in N.J.S.A. 48:5A-38, require that the Board find that the Transaction is in the public interest. The statutory criteria for approval of petitions involving acquisitions of control of New Jersey Telecommunications providers as set forth in N.J.S.A. 48:2-51 require that the Board find that the transaction will not have an adverse impact on competition, on the rates of affected ratepayers, on the employees of

TWCIS, or on the provision of safe and adequate service at just and reasonable rates.

The Stipulation allows New Jersey's Time Warner subscribers to receive many of the benefits which have been required by the New York State Public Service Commission which issued their decision approving the merger petition in early January.

They include several customer service provisions, including requiring that Time Warner maintain their existing customer service office in Palisades Park for a minimum of two years and that they must request Board approval for any request to relocate that office; requiring Charter to report to the Board should they experience a net loss of employees greater than 15 percent; requiring Charter to invest a minimum of \$750,000.00 in customer service improvements which can be shown to benefit New Jersey operations. These may include, by way of example, training, diagnostic systems and tools used primarily by employees who have direct interaction with customers at call centers and walk-in centers, as well as service technicians.

Staff believed the provisions in the Stipulation will ensure that customers in the small footprint served by Time Warner will not be overlooked and will be recipients of most of the same public interest benefits and will be provided to customers in Time Warner's larger New York footprint.

Staff recommended that the Board approve the Parties Stipulation.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

4. TELECOMMUNICATIONS

There were no items in this category.

5. WATER

A. Docket No. WM15080982 – In the Matter of the Joint Petition of New Jersey American Water Company, Inc. and Roxiticus Water Company, Inc., for Among Other Things, Approval of a Change in Control of Roxiticus Water Company, Inc.

Michael Kammer, Bureau Chief, Division of Water, presented this matter.

BACKGROUND AND DISCUSSION: On August 25, 2015, New Jersey American Water Company, Inc. (NJAW) and Roxiticus Water Company (Roxiticus) filed a joint petition with the Board seeking approval for New Jersey American to acquire Roxiticus.

NJAW and Roxiticus are regulated public utilities. NJAW currently provides water service to approximately 613,000 water and fire service customers and to approximately 35,987 sewer service customers in all or part of 189 municipalities in 18 of the State's 21 counties.

Roxiticus provides water service to approximately 100 customers in a portion of Mendham Township, Morris County, New Jersey. NJAW serves approximately 700 customers in Mendham Township. Roxiticus buys all of its water from NJAW.

Staff recommended that the Board approve the acquisition of Roxiticus by NJAW.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

6. RELIABILITY & SECURITY

There were no items in this category.

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QG16020103 – In the Matter of the Edison Innovation Green Growth Fund – Solicitation – Eos Energy Storage, LLC.

Anne Marie McShea, Clean Energy Program Administrator, Division of Economic Development & Emerging Issues presented this matter.

BACKGROUND AND DISCUSSION: The New Jersey Economic Development Authority as administrator of the Edison Innovation Green Growth Fund (EIGGF) for the Board's Office of Clean Energy recommended an award of \$2 million in the form of a loan to Eos Energy Storage, LLC (Eos). The EIGGF award would provide the Company growth capital to support expansion of their pilot manufacturing facility in Edison, NJ, as well as support for commercial operations including research and development, product development and demonstration, hiring and training personnel, marketing and purchasing inventory.

Eos was established in 2008 after issuance of a patent for its core battery storage technology. Eos' mission is to develop cost effective utility-grade, grid-scale energy storage solutions. To that end, Eos has developed and is now commercializing a rechargeable zinc hybrid cathode battery technology it calls Znyth™. Znyth™ is designed to be a safe, low-cost, long-life, energy dense, and highly efficient aqueous

utility-grade battery.

Eos currently leases 30,000 square feet of space comprised of office space, laboratory space, and a testing facility for integration and prototype assembly. Eos currently employs 46 full-time employees in New Jersey and plans to hire at least 17 new full-time employees over the next 24 months and 71 over the next 5 years.

Staff recommended that the Board approve the EIGGF loan in the amount of \$2 million to Eos to support the expansion of a pilot manufacturing facility and other commercial activities. Staff also recommended that the Board approve the loan and authorize President Mroz to sign the loan documents.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

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 \$500,000.00:

Docket No. QG16010084 – New Jersey Transit Corporation
Docket No. QG16010085 – New Jersey American Water.

BACKGROUND AND DISCUSSION: As part of the New Jersey Clean Energy Program (NJCEP), the Board administers the Large Energy Users Program (LEUP) which fosters self-investment in energy efficiency and combined heat and power (CHP) projects, while providing necessary financial support to large commercial and industrial utility customers. Incentives are awarded to customers that satisfy the program's eligibility and program requirements to invest in self-directed energy projects customized to meet requirements of the customer's existing facilities, while also advancing the State's energy efficiency, conservation, and greenhouse gas reduction goals.

New Jersey Transit Corporation (NJT) submitted an application for a financial incentive in the amount of \$928,880.25. New Jersey American Water (NJAW) also submitted an application for a financial incentive in the amount of \$532,333.23.

The NJT LEUP application is for a project located at 1148 Newark Turnpike in Kearny. NJT proposed to upgrade lighting throughout its Meadowlands Maintenance Complex using light emitting diode fixtures that include built-in occupancy and daylight sensors, wireless networking, and integrated controls to optimize light levels and fixture operation to further reduce energy consumption. Installing these measures will reduce annual electric usage by an estimated 3,398,109 kWh and reduce annual electric demand by 398 kW. The project has an estimated annual energy cost savings of \$386,062.00 at a total project cost of \$1,238,507.00. The applicant will realize an operational and

maintenance savings of \$18,830.00 per year. The simple payback period without incentive is 3.21 years, which is reduced to 0.8 years with incentive.

The NJAW LEUP application is for projects located at various. NJAW proposes to install more efficient water pumps, coat existing pumps with epoxy, and install variable frequency drives. Installing these measures will reduce annual electric usage by an estimated 1,613,131.4 kWh. The proposed project will have an estimated annual energy cost savings of \$220,851.35 at a total project cost of \$1,173,502.00. The simple payback period without incentive is 5.3 years, which is reduced to 2.9 years when factoring in the incentive and energy cost savings.

Staff determined that these applications meet the eligibility criteria for the LEUP Program and recommended that the Board approve both projects.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

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

Docket No. QG16020093 – Clement Pappas and Company, Inc.

Docket No. QG16020094 – Grand LHN I Urban Renewal, LLC

Docket No. QG16020095 – Eickhoff Supermarkets, Inc. (Shoprite of Hainesport)

Docket No. QG16020096 – Village Supermarket, Inc. (Shoprite Rio Grande)

BACKGROUND AND DISCUSSION: The Board administers the New Jersey Clean Energy Program (NJCEP). The Combined Heat & Power/Fuel Cell (CHP/FC) Program is open to all Commercial & Industrial customers paying into the Societal Benefits Charge who install combined heat and power or fuel cell systems to further enhance energy efficiency in their buildings through on-site power generation with recovery and productive use of waste heat, thereby reducing existing and new demands to the electric power grid. Clement Pappas & Co, Eickhoff Supermarkets, Inc., and Village Supermarket, Inc. have submitted applications for CHP projects to be installed in Bridgeton, Hainesport, and Rio Grande, New Jersey. The incentive amounts for each of the applications are \$1,435,864.80, \$900,000.00, and \$900,000.00, respectively.

The Pay for Performance (P4P) – New Construction Program promotes high performance buildings that achieve 15% or more energy cost savings than buildings built to the current energy code. Grand LHN I Urban Renewal, LLC submitted an application for its 18 Park project, which is a combination multi-family high rise building and mixed use property located in Jersey City, New Jersey. Grand LHN I Urban Renewal, LLC submitted this application to the P4P Program for an incentive of \$596,664.44.

The Clement Pappas project for a 1 MW CHP system, to be installed at 1045 Parsonage Road, in Bridgeton, with an estimated average annual energy cost savings of

\$449,954.82. The estimated project cost of \$4,786,216.00. has an 8.94 year payback without incentives, which is reduced to 6.26 years with incentive.

The Eickhoff Supermarkets CHP/FC project is for a 450 kW natural gas CHP system at ShopRite, 1520 Route 38 in Hainesport, with an estimated average annual energy cost savings of \$152,184.64. The estimated project cost of \$2,744,099.00. has a payback period without incentive of 12.9 years, which is reduced to 8.7 years with incentive.

The Village Supermarket CHP/FC project is for a 450 kW natural gas CHP system at ShopRite, North 5th St. and Hirst Ave, in Rio Grande with an estimated average annual energy cost savings of \$158,317.03. The estimated project cost of \$2,764,099.00. has a payback period without incentive of 12.7 years, reduced to 8.5 years with incentive.

Grand LHN I Urban Renewal P4P - New Construction application is for a multi-family building at 18 Park in Jersey City for installation of high efficiency Heating, Ventilation & Air Conditioning, window/door upgrades, Light Emitting Diode lighting, and high efficiency hot water boilers. The project has an estimated energy cost savings of \$237,369.00, at an estimated cost of \$741,212.00, and 3 year simple payback with incentive.

Staff determined that these applications meet the eligibility criteria for the CHP/FC and P4P New Construction Programs, and recommended that the Board approve each project.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

Secil Uztetik Onat, Executive Director, Division of Economic Development & Emerging Issues, presented these matters.

D. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, c. 24, The Solar Act of 2012; and

Docket No. QO16020108 – In the Matter of the Petition of True Green Capital Management LLC for an Extension of the Designation Date Set Forth in the Matter of Augusta Solar Farms, LLC (Docket No. QO13101014) Pursuant to N.J.S.A. 48:3-87(Q).

BACKGROUND AND DISCUSSION: On February 10, 2016, True Green Capital, LLC, owner and operator of a grid supply solar generation facility filed a petition with the Board seeking an extension of time to complete construction.

This project is one of only two projects approved in Round Two for Energy Year (EY) 2014, and the only project that seeks a brief extension. As Staff noted, all other EY

2014 projects approved under Round One have concluded. No other project approved under Round One or Round Two for EY 2014 petitioned the Board for an extension of its designation date. Therefore, there is no impact to other EY 2014 projects approved in Round One or Round Two. No other project is similarly situated and no other project will be affected by this modification. EY 2014 is closed. Furthermore, the prolonged, unforeseen and particular delays, and efforts of the Petitioner in response, are unique to these circumstances.

Staff reviewed the Petitioner's documentation and reported that the Petitioner's request to modify the designation date is not unreasonable. Such a modification will provide three and one-half additional months for the Augusta Project to enter commercial operations and will accommodate for the unique circumstances as described in its petition. Staff recommended that the Board modify the "date of designation" in the February 4, 2014 Order from February 14, 2014 to the end of EY 2014, or May 31, 2014, for the Augusta Project. The deadline for True Green to commence commercial operations will then become the end of EY 2016 or May 31, 2016. This change in the date of designation would allow True Green time to achieve commercial operations and earn the solar renewable energy certificates.

Staff recommended that the Board allow the requested three and one-half-month adjustment to the date of designation and approve the Petition for Extension filed by True Green.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

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

Docket No. EO12090862V – In the Matter of the Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(T) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; and

Docket No. QO15111299 – Radiant Energy, LLC – Price Landfill.

BACKGROUND AND DISCUSSION: This matter involved the Radiant Energy, LLC (Applicant) application for certification for the proposed Price's Landfill solar electric generation facility to be located in Pleasantville and Egg Harbor Township in Atlantic County. The Applicant submitted the required documentation and the New Jersey Department of Environmental Protection (NJDEP) determined that the site is a properly closed sanitary landfill facility.

On November 12, 2015, the Applicant submitted an application to the Board to have its

project certified as being located on a properly closed sanitary landfill facility pursuant to Subsection t of the Solar Act. Applicant's 4.2 MW project is proposed to be constructed on 21 acres of the 26 acre Price's Landfill site.

Staff forwarded the application to NJDEP for review and was advised that the Price's Landfill is a 26-acre Superfund site, which operated as a solid waste landfill, accepting industrial chemicals, sewage, greases and oil, from 1969 to 1976.

NJDEP also noted that the solar installation will constitute the construction of improvements on a closed landfill. Accordingly, NJDEP advised that prior to construction of the solar electric generation facility, they will need to obtain an Approval from the NJDEP's Division of Solid and Hazardous Waste, which will need to address impacts on the environmental controls in place at the site.

Staff recommended conditional approval, with full certification contingent upon satisfying the permitting requirements of the NJDEP.

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

Roll Call Vote:	President Mroz	Aye
	Commissioner Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye

9. MISCELLANEOUS

There were no items in this category.

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.

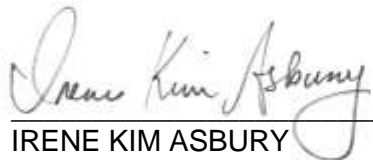
2. ENERGY

A. Non-docketed Matter – In the Matter of Management Consulting: Oversight of the Board of Public Utilities Basic Generation Service Auction Process – Request for Proposal 12-X-22552.

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.



IRENE KIM ASBURY
BOARD SECRETARY

DATE: March 18, 2016