



**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 November 19, 2018, at the State House Annex, Committee Room 4, 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:

Joseph L. Fiordaliso, President  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Upendra J. Chivukula, Commissioner  
Robert M. Gordon, Commissioner

President Fiordaliso presided at the meeting and Aida Camacho-Welch, Secretary of the Board, carried out the duties of the Secretary.

It was announced that the next regular Board Meeting would be held on December 18, 2018 at the State House Annex, Committee Room TBA, 125 West State Street, Trenton, New Jersey 08625.

## CONSENT AGENDA

### I. AUDITS

#### A. Energy Agent and Energy Consultant Initial Registrations

EE17080826L	Custom Energy Solutions, LLC	I – EA/EC
GE17080827L		

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

EE18090981L	Lighthouse Business Consulting Development & Services, LLC	R – EA
EE18060637L	ClearPath Energy, LLC	R – EA
EE18060666L	Electricity Ratings, LLC	R – EA
EE18101105L	NJ Green Energy Consulting, LLC	R – EA/PA
GE18101106L		
EE17050532L	Commercial Utility Consultants, Inc.	R – EA/PA/EC
GE17050533L	d/b/a Commercial Utility Consultants	

#### Natural Gas Supplier Initial License

GE17080912L	Nordic Energy Services, LLC	I – GSL
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#### Electric Power and/or Natural Gas Supplier Renewal Licenses

EE18101108L	Plymouth Rock Energy, LLC	R – EGSL
GE18101107L		
EE18101157L	AP Gas & Electric (NJ), LLC d/b/a APG&E	R – ESL
EE18101102L	AEP Energy, Inc.	R – ESL
EE17101076L	Champion Energy Services, LLC	R – ESL
EE17111206L	MP2 Energy NE, LLC	R – ESL
EE18010017L	Nordic Energy Services, LLC	R – ESL
EE18070778L	Reliant Energy Northeast, LLC	R – EGSL
GE18091006L	d/b/a NRG Home, NRG Business, NRG Retail Solutions	
EE17080860L	Choice Energy, LLC	R – EGSL
GE17080859L	d/b/a 4 Choice Energy, LLC	

**BACKGROUND:** The Board must register all energy agents and consultants, and the Board must 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, private aggregators and energy consultants, are required to renew timely their licenses in order to continue to do business in New Jersey.

Staff recommended that the following applicant be issued initial registrations as an energy agent, and energy consultant for one year:

- Custom Energy Solutions, LLC

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

- Lighthouse Business Consulting Development & Services LLC
- ClearPath Energy LLC
- Electricity Ratings, LLC
- NJ Green Energy Consulting LLC
- Commercial Utility Consultants, Inc. d/b/a Commercial Utility Consultants

Staff further recommended that the following applicant be issued initial license as a natural gas supplier for one year:

- Nordic Energy Services, LLC

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

- Plymouth Rock Energy, LLC
- AP Gas & Electric (NJ), LLC d/b/a APG&E
- AEP Energy, Inc.
- Champion Energy Services, LLC
- MP2 Energy NE LLC
- Nordic Energy Services, LLC
- Reliant Energy Northeast LLC d/b/a NRG Home, NRG Business, NRG Retail Solutions
- Choice Energy, LLC d/b/a 4 Choice Energy, LLC

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

**B. Docket No. TE18080898 – In the Matter of Verified Petition of Teliax, Inc. for Authority to Provide Competitive Facilities-Based Local Exchange Services, Interexchange Services, and Exchange Access Services throughout the State of New Jersey.**

**BACKGROUND:** By letter dated August 13, 2018, Teliax, Inc. (Petitioner or Teliax) filed a petition with the Board requesting authority to provide all forms of facilities-based competitive local exchange, exchange access and facilities-based interexchange services throughout the State of New Jersey.

Teliax is a privately held corporation organized under the laws of the State of Colorado.

The Petitioner sought authority to provide retail local exchange services to enterprise customers and wholesale local exchange services, including switched access services, using its own facilities and services available from other facilities-based carriers. The Petitioner seeks statewide authority so that it may expand its service areas as market condition warrant and as additional service areas become open to competition. Petitioner will provide services by using its own switching facilities and by leasing switching and transport from other entities. The Petitioner will provide service to Voice over Internet Protocol enabled business customers and Telephony Applications providers on retail, wholesale, carrier level, including Public Switch Telephone Network connectivity and intermediate carrier functions. Petitioner intends to rely upon facilities of Incumbent Local Exchange Carriers, Competitive Local Exchange Carriers (CLECs), Competitive Access Providers and potentially other carriers located in New Jersey.

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

By letter dated September 4, 2018, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments to the Board stating that, based on its review, Rate Counsel is satisfied that the petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. The Rate Counsel did not oppose a grant of authority or approval of the Petitioner's request to provide local exchange, exchange access and interexchange telecommunications services throughout the State of New Jersey.

After review, Staff recommended that the Board grant the Petitioner's request for authority to provide local exchange, exchange access and interexchange telecommunications services throughout the State of New Jersey. Staff's recommendation does not pertain to Non-CLEC Services. Staff also recommended that the Board approve the request for waivers from its requirements that the Petitioner maintain its financial books and records in accordance with the USOA and within New Jersey.

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

## **II. ENERGY**

### **A. Docket No. ER18010004 – In the Matter of Federal Energy (FERC) Items for 2018 – FERC Docket No. ER19-204 Public Service Electric and Gas Company re: Deferred Tax Adjustment.**

**BACKGROUND:** Commissioner Gordon recused himself from this matter. On November 5, 2018, Staff, on behalf of the Board, filed a doc-less intervention in this proceeding as an "interested state commission" under the Federal Energy Regulatory Commission (FERC or Commission) Rules of Practice and Procedure. The FERC e-filing rules allow for doc-less interventions, which serve to establish the Board as a party to the proceeding. If a substantive filing is necessary to advance Board policy, Staff will bring the matter to the Board's regular agenda.

On October 29, 2018, Public Service Electric and Gas Company (PSE&G) filed proposed modifications to its transmission formula rate template (Formula Rate), contained in the PJM Interconnection LLC (PJM) Open Access Transmission Tariff to incorporate measures to address various income tax-related items relating to the effects of the Tax Cuts and Jobs Act of 2017 and other recent Commission formula rate determinations.

Revisions to PSE&G's Formula Rate Template relate to three-income tax-related items:

- 1) A modification to permit the return to (or recovery from) customers excess (or deficient) accumulated deferred income taxes (ADIT) resulting from the changes in the income tax laws;
- 2) A revision to prospectively account for deferred income taxes associated with the equity component of the Allowance for Funds Used During Construction; and

- 3) The elimination of the two-step averaging method of the prorated ADIT balance that has been criticized recently by the Commission.

PSE&G estimated the 2019 annual net impact of the proposed modifications will be a reduction of approximately \$157 million or an 11.7% reduction in transmission rates. PSE&G has requested an effective date of January 1, 2019.

Staff recommended that the Board ratify this intervention.

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

**B. Docket No. ER18010004 – In the Matter of Federal Energy (FERC) Items for 2018 – FERC Docket No. ER19-105 PJM Interconnection, LLC re: Quadrennial Review.**

**BACKGROUND:** On October 23, 2018, Staff, on behalf of the Board, filed a doc-less intervention in this proceeding as an “interested state commission” under the Federal Energy Regulatory Commission (FERC) Rules of Practice and Procedure. The FERC e-filing rules allow for doc-less interventions, which serve to establish the Board as a party to the proceeding. If a substantive filing is necessary to advance Board policy, Staff will bring the matter to the Board’s regular agenda.

On October 12, 2018, PJM Interconnection LLC (PJM) submitted revisions to its Open Access Transmission Tariff (Tariff) to modify certain Reliability Pricing Model auction parameters that are required by the Tariff to be reviewed every four years through an analysis and stakeholder process.

Staff recommended that the Board ratify this intervention.

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

**C. Docket No. GE18070781 – In the Matter of the Petition of South Jersey Gas Company for Approval of a Municipal Consent in the Borough of West Cape May, Cape May County, New Jersey.**

**BACKGROUND:** This matter involved approval of a municipal consent granted to South Jersey Gas Company (SJG or Company) by the Borough of West Cape May (Borough) located in Cape May County. SJG filed a petition requesting Board approval of the consent for the use of the streets for the furnishing of gas service for a period of 50 years in the Borough.

This consent is a renewal of a prior consent that is set to expire on July 1, 2019. The ordinance enacted by the municipality grants SJG the right to provide service and to lay and construct its facilities within the public rights-of-way as a means to provide that service.

A hearing in this matter was held on September 21, 2018, before Megan Lupo, the Board’s duly appointed hearing officer. Appearances were made on behalf of the Company, the New Jersey Division of Rate Counsel and Board Staff. No other party participated in the hearings or filed any written submission with the Board related to these proceedings.

Staff recommended that the Board approve the municipal consent, subject to certain terms.

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

### III. CABLE TELEVISION

**A. Docket Nos. CE18080861 and CE15050621 – In the Matter of the Amended Petition of Comcast of New Jersey II, LLC for Modification of the Terms and Conditions of a Municipal Consent upon which a Certificate of Approval is Based for the Borough of South River, County of Middlesex, State of New Jersey.**

**BACKGROUND:** Commissioner Gordon recused himself from this matter. On October 15, 2015, the Board granted an Automatic Renewal Certificate of Approval to Comcast of New Jersey II, LLC (Comcast) for the Borough of South River (Borough). The Automatic Renewal Certificate of Approval contained a provision that required Comcast to maintain a local business office or agent within the Borough limits for the purpose of receiving, investigating, and resolving complaints. The Comcast local business office serving this provision was located at 72 Main Street, South River, New Jersey.

Comcast had been seeking to close what it called a “legacy office” for some time, but the Borough did not engage in discussions. However, in January 2018, a pipe burst and upon initial inspection, asbestos was found. While the asbestos was remediated, further inspection found mold. Comcast determined it would not re-open the office as further remediation was necessary.

On June 26, 2018, the Borough adopted amendments to its ordinance granting municipal consent to Comcast. On July 2, 2018, Comcast accepted terms and conditions of the amended ordinance, and on August 9, 2018, Comcast filed a petition with the Board for approval of the amendments.

Staff recommended approval of the proposed Amendment to the Renewal Certificate of Approval.

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

### IV. TELECOMMUNICATIONS

There were no items in this category.

### V. WATER

**A. Docket No. WR18080881 – In the Matter of the Petition of Aqua New Jersey, Inc., Wallkill Sewer Division, for Approval of a 2017 Purchased Wastewater Treatment Adjustment Clause True-Up and Other Required Approvals.**

**BACKGROUND:** On August 10, 2018, Aqua New Jersey’s Wallkill Sewer Division (Aqua Wallkill) filed a petition with the Board for approval of a Purchased Sewerage Treatment Adjustment Clause (PSTAC) true-up for calendar year 2017 and to set rates prospectively for calendar year 2019. Aqua Wallkill filed for a decrease in PSTAC revenues.

Aqua Wallkill services approximately 408 wastewater customers in a portion of Hardyston Township in Sussex County, New Jersey.

Aqua Wallkill is engaged in the collection and transmission of sewage. The Sussex County Municipal Utilities Authority receives and treats all of the sewage transmitted by Aqua Wallkill.

This matter was retained by the Board and since Aqua Walkill requested a decrease in rates, it was deemed that a public comment hearing was not required. After serving discovery upon Aqua Walkill, which was fully responded to, the Parties, consisting of Aqua Walkill, the New Jersey Division of Rate Counsel (Rate Counsel) and Board Staff, engaged in a settlement teleconference on October 15, 2018, and as a result, reached a Stipulation of Settlement (Stipulation).

- The Stipulation called for a decrease in Aqua Walkill's PSTAC revenues totaling \$5,048.00 or approximately -3.72% below current PSTAC revenues of \$135,541.00.
- The average residential customer, with a 5/8" meter utilizing approximately 3,900 gallons of water per month, would see an decrease in his wastewater bill from \$34.11 to \$33.33 per month, which equates to an overall decrease in total wastewater bill of -\$0.78.

Staff recommended that the Board adopt the Stipulation of the Parties which results in a decrease in rates.

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

## **VI. RELIABILITY & SECURITY**

### **A. Docket Nos. GS18091030K, et al. – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 to -91.**

**BACKGROUND:** Commissioner Gordon recused himself from this matter. This matter involved settlements of alleged violations of the Underground Facility Protection Act (Act) by both excavators and operators of underground facilities. This matter does not contain settlements involving catastrophic situations, death or major property damage. 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. 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 53 and total penalty of \$157,000.00.

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. ES16040299K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 to -91 by Classic Fence and Landscape.**

**BACKGROUND:** This matter involved Final Order of Penalty Assessment (FOPA), resulting from alleged violations of the Underground Facility Protection Act (Act). Following the reports of the failure to obtain a valid mark-out prior to commencing excavation or demolition activities, or the failure to hand dig and locate facilities, or the failure to use reasonable care, or reports of a failure to mark out underground facilities or properly mark them, Board Staff contacted the entity involved, investigated the incident, and informed the Respondent of the date and location of the alleged violations.

In an attempt to resolve this matter the alleged violator was 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 Uniform Administrative Procedure Rules. The Respondent failed to submit the Answering Certification as required. The certified mail receipt was returned to the Board and signed, and the regular mail was not returned to the Board as undeliverable.

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

Staff requested the Board approve the FOPA, therefore, evoking the Board's authority to pursue an action for civil penalties as permitted by the Act in connection with the above-referenced alleged violation of the Act.

This FOPA is in the amount of \$6,000.00.

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

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

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

**VII. CUSTOMER ASSISTANCE**

**A. Docket Nos. BPU WC17091013U and OAL PUC 04043-18 – In the Matter of Charles and Beth Melita, Petitioners v. New Jersey American Water, Respondent – Billing Dispute.**

**BACKGROUND:** This matter involved a billing dispute between Charles and Beth Melita (Petitioners) and New Jersey American Water (NJAW). The petition was transmitted to the Office of Administrative Law for hearing as a contested case. Administrative Law Judge (ALJ) Susan L. Olgiati filed an Initial Decision in this matter with the Board on October 30, 2018, approving a Stipulation of Settlement (Stipulation) of the Parties.



Pursuant to the terms of the Stipulation, and in order to fully resolve this matter, NJAW agreed to issue a check to the Petitioners in the amount of \$600.00 in full and final settlement of the billing dispute. The Petitioners further agreed to dismiss the dispute.

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

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

**B. Docket Nos. BPU WC17090970U and OAL PUC 04362-18 – In the Matter of Anselmo Marquez, Petitioner v. Middlesex Water Company, Respondent – Request for Extension.**

**BACKGROUND:** The Initial Decision of the Administrative Law Judge was received by the Board on November 2, 2018; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on December 17, 2018. 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 January 30, 2019.

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

**C. Docket Nos. BPU EC17121255U and OAL PUC 04267-18 – In the Matter of Kyle Kubs, Petitioner v. Jersey Central Power and Light Company, Respondent – Request for Extension.**

**BACKGROUND:** The Initial Decision of the Administrative Law Judge was received by the Board on October 15, 2018; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on November 29, 2018. Prior to that date, the Board requested an additional 45-day extension of time for issuing the Final Decision in order to adequately review the record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until January 14, 2019.

**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 for the September 17, 2018 Agenda Meeting.**

**BACKGROUND:** Staff presented the minutes of September 17, 2018 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 Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye (excluding noted recusals)

## AGENDA

### 1. AUDITS

There were no items in this category.

### 2. ENERGY

**Cynthia L. M. Holland, Esq., Director, Office of Federal and Regional Policy**, presented these matters.

**A. Docket No. ER18010004 – In the Matter of Federal Energy (FERC) Items for 2018 – FERC Docket No. EL18-178 PJM Interconnection, LLC re: 206 Proceeding to Determine Just and Reasonable Replacement Rate.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, filing with the Federal Energy Regulatory Commission (FERC or the Commission) Reply Argument in the paper hearing proceeding established in the Commission's June 29, 2018 Order.

In the filing, Staff 1) reinforces the objection to the intrusion into state jurisdiction; 2) again highlights the need for accommodation, if FERC does expand the Minimum Offer Price Rule (MOPR), and identifies a possibly workable solution; 3) reiterates any application of MOPR must be based on reasonable definitions; 4) again emphasizes that the Commission must answer outstanding questions about the Unit-specific FRR alternative (FRRa); 5) identifies unjust and unreasonable options pending before FERC; and 6) notes that FERC must address and coordinate changes on the whole - not in silos. Staff's filed comments are consistent with past Board filings, in this docket and many others regarding the capacity market.

Staff recommended that the Board approve the Reply Argument in FERC's paper hearing proceeding, filed on November 5, 2018.

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

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

**B. Docket No. ER18010004 – In the Matter of Federal Energy (FERC) Items for 2018 – FERC Docket No. ER19-105 PJM Interconnection, LLC re: Quadrennial Review.**

**BACKGROUND AND DISCUSSION:** This matter involved Staff, on behalf of the Board, joined with a coalition of end-use customer parties (namely, the D.C. Office of People's Counsel, among others) in filing Initial Comments with the Federal Energy Regulatory Commission regarding PJM Interconnection LLC's proposed recommendations to its Quadrennial Review.

In the comments, Staff et al provide support for the 1% leftward shift of the Variable Resource Requirement Curve, but oppose the 10% energy adder and the use of

combustion turbine as the reference resource technology. Staff recommended that the Board approve the Initial Comments filed on November 19, 2018 in this proceeding.

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

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

**Stacy Peterson, Director, Division of Energy**, presented these matters.

**C. Docket No. ER18091061 – In the Matter of Basic Generation Service and the Compliance Tariff Filing Reflecting Changes to Schedule 12 Charges in PJM Open Access Transmission Tariff – September 2018 Joint Filing.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. On September 26, 2018, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company and Rockland Electric Company (collectively, the EDCs) filed a joint petition (September 2018 Petition) with the Board requesting recovery of Federal Energy Regulatory Commission (FERC) approved changes in transmission service related charges.

Through a series of Orders, the Board authorized the EDCs to modify their Basic Generation Service (BGS) Residential/Small Commercial Pricing and Commercial and Industrial Energy Pricing rates to reflect the changes in their transmission charges resulting from the FERC-approved changes to the Transmission Enhancement Charges (TECs) resulting from changes in the PJM Interconnection, LLC (PJM) Open Access Transmission Tariff (OATT).

On May 31, 2018, FERC issued an Order (Seventh Circuit Order) approving a Contested Settlement (Seventh Circuit Settlement) concerning the regional cost allocation methodology applicable to 11 large transmission projects (500kV and above) approved between the years 2005 and 2013. The Seventh Circuit Settlement was submitted to FERC on June 15, 2016. The Board is identified in the Seventh Circuit Settlement as a “non-opposing” party. The Seventh Circuit Settlement was contested at FERC by the merchant transmission owners. Due to a number of procedural delays, and then the lengthy period of non-quorum at FERC, the Seventh Circuit Settlement remained pending for nearly two full years. Despite the unanticipated and significant time lag, the time period effected by the Seventh Circuit Settlement began January 1, 2016.

In the Seventh Circuit Order, FERC found that the overall result of the Seventh Circuit Settlement was just and reasonable as applied to the contesting parties. Consistent with its decision, FERC directed PJM to make a compliance filing with revised tariff records within 30 days of its order. PJM then sought, and was granted, an additional extension of time to carry out FERC’s directive. PJM implemented the cost allocation changes in the OATT effective July 1, 2018 on a prospective basis. While FERC has ruled on this matter through the issuance of the Seventh Circuit Order, the cost reallocation is still subject to a pending rehearing request at FERC.

Under the Supplier Master Agreement (SMA), specifically Section 15.9, the EDCs are permitted to recover increases in Firm Transmission Service charges from BGS customers subject to Board approval. Thereafter, EDCs are required to remit payment of the increased charges to suppliers upon, among other things, the issuance of a “FERC Final Order” approving the Firm Transmission Service increase.

The proposed rates included in the amended tariff sheets for each EDC reflect costs effective on October 1, 2018. The EDCs also requested that the BGS suppliers be compensated for the changes to the OATT resulting from the implementation of the updates to formula rates which became effective July 1, 2018. The EDCs represent that suppliers will be compensated subject to the terms and conditions of the applicable SMAs. Any differences between payments to BGS Residential/Small Commercial Pricing (BGS-RSCP) and the Commercial and Industrial Energy Pricing (BGS-CIEP) suppliers and charges to customers will flow through BGS Reconciliation Charges.

The EDCs also requested a waiver of the 30-day filing requirement that would otherwise apply to this type of submission, because BGS suppliers began paying the revised transmission charges for service effective July 1, 2018 pursuant to the Seventh Circuit Order.

The Board’s December 22, 2006 Order at page 12 states, “Upon receipt of Board approval for the increase in the rates charged to BGS Customers, the EDCs would begin collecting the increase from BGS Customers, tracking that portion of the rates charged to BGS Customers attributable to the rate increase, and retaining such tracked amounts for the ultimate benefit of the BGS Suppliers. Upon approval by the FERC of a proposed rate increase, in a Final FERC Order not subject to refund, the EDCs would increase, by the amount approved by the Board, the BGS-Fixed Price (FP) auction price paid to BGS-FP Suppliers, and the BGS-CIEP Transmission Charge paid to BGS-CIEP Suppliers, and would pay each BGS Supplier, in proportion to its BGS Supplier Responsibility Share, the amounts tracked and retained for the benefit of BGS Suppliers until the date final FERC approval was received.”

In the Board’s Order dated November 21, 2017 in Docket No. ER17040335, the Board found that the current construct provides a balance between the protection of ratepayers and the concerns of BGS suppliers regarding risk, while allowing the Board discretion on a case by case basis. In this instance, as noted above, the Seventh Circuit Settlement remained pending at FERC for nearly two full years. Additionally, the time period effected by the Seventh Circuit Settlement began January 1, 2016. Any further delay in implementing the reallocations pursuant to the Seventh Circuit Settlement may have a detrimental impact to the upcoming 2019 BGS Auction as well as the impacts to customers.

Staff recommended that the Board issue an order approving the changes to the BGS-RSCP and BGS-CIEP rates requested by each EDC for its transmission charges resulting from the FERC-approved changes to the TECs effective as of December 1, 2018. With respect to the reallocations derived from the Seventh Circuit Order, Staff also recommended that, given the unique circumstances in this particular matter, the Board approve the EDCs’ request to pay suppliers at this time and authorize the EDCs to collect from BGS customers, the costs associated with the Seventh Circuit Order subject to the terms and conditions of the SMAs.

Staff further recommended that the Board direct the EDCs to file tariffs and rates consistent with the Board's findings by December 1, 2018.

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

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

**D. Docket No. ER18040356 – In the Matter of the Provision of Basic Generation Service for the Period Beginning June 1, 2019.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. This matter involved a recommendation for securing electric power supplies for non-shopping Basic Generation Service (BGS) customers for the period beginning June 1, 2019. The recommendation is to allow the Electric Distribution Companies (EDCs) to conduct two descending clock auctions (Auctions) similar to those approved by the Board for the past seventeen years. The Auctions would secure full electricity requirements for hourly-priced service for the largest electric customers, and the full electricity requirements for smaller commercial and residential customers. The Auctions would be conducted in February 2019.

Staff recommended that the Board approve the same basic descending clock auction process, the auction rules, Board approval process and Supplier Master Agreements that have been successfully employed for the past few years. Staff also recommended that the Board require each of the EDCs to file an amended BGS Compliance Filing by December 3, 2018. Staff further recommended that the Board give Staff authority to review the EDCs' compliance filings, and should Staff find the EDCs' filings comply with the Board Order, grant Staff authority to have a Board Secretary's Letter issued approving the compliance filings.

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

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

**3. CABLE TELEVISION**

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

**A. Docket No. CO18080862 – In the Matter of the Petition of Comcast Cable Communications, LLC for Permission to Close and Relocate a Customer Service Office (Borough of South River, County of Middlesex, State of New Jersey).**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. This matter involved a Petition requesting approval to close a local office in the

Borough of South River (Borough) by Comcast Cable Communications, LLC (Comcast or Company).

On August 9, 2018, Comcast filed a petition with the Board for closure of the Company's local office in the Borough. The petition indicated that on January 12, 2018, a pipe burst in Comcast's local office located in South River, New Jersey. Initial inspection indicated the presence of asbestos. Comcast placed a notice on the door of the closed office on January 13, 2018 and provided notice of the temporary closing to the Borough on January 18, 2018.

While the asbestos was remediated, inspection prior to reoccupation discovered mold. The Company determined it would not re-open the office as further remediation was necessary and the building's owner was not willing to undertake it. Comcast had been seeking to close what it called a "legacy office" for some time, but the Borough did not engage in discussions.

On June 28, 2018, the Borough adopted amendments to its ordinance allowing Comcast to close the office in the Borough on a permanent basis.

Notice of the office closing was published on August 15, 2018 in *The Home News Tribune* and August 16, 2018 in *The Star Ledger*, newspapers of general circulation in Comcast's service area, informing area subscribers of the proposal and their right to file written comments or objections with the Board by September 17, 2018. No comments were received.

On August 29, 2018, the New Jersey Division of Rate Counsel filed comments with the Board stating that they did not object to the approval of the petition.

Staff recommended approval of the proposed Amendment to the Renewal Certificate of Approval.

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

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

**B. Docket No. CE13010007 – In the Matter of the Petition of Comcast of South Jersey, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Downe, County of Cumberland, State of New Jersey.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. This matter involved a Petition requesting an Automatic Renewal Certificate of Approval to Comcast of South Jersey, LLC (Comcast) for the Township of Downe (Township) for a term of ten years.

On October 12, 2018, Administrative Law Judge (ALJ) John S. Kennedy issued an Initial Decision and Summary Decision finding that Comcast is entitled to the Automatic Renewal provision of the Renewal Certificate of Approval for the Township.

ALJ Kennedy, found that, after considering all papers filed in the matter that there were no issues of fact that require a plenary hearing and issued a summary decision that the Automatic Renewal Certificate of Approval should be issued based on N.J.A.C. 14:18-13.6.

Staff recommended adoption of the ALJ Kennedy's Initial Decision and approval of the proposed Automatic Renewal Certificate of Approval.

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

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

**C. Docket No. CM18101191 – In the Matter of Altice USA, Inc. Notification of Pro Forma Transaction.**

**BACKGROUND AND DISCUSSION:** This matter involved the notice circulated by Altice USA, Inc. (Altice USA), provided to the Board on October 10, 2018, outlining a proposed combination of Altice USA's Cequel Corporation (Cequel) subsidiaries with and into Cablevision System Corporation and a proposed refinancing of certain Altice USA debt (the Transaction).

Altice USA is a publicly traded Delaware corporation that is one of the largest cable operators in the United States. As of June 30, 2018, Altice USA served approximately 4.9 million residential and commercial customers across twenty-one states.

Altice USA is an authorized provider of cable television and telecommunications services in New Jersey through its subsidiaries – Cablevision Lightpath-NJ, LLC; 4Connections, LLC; and CSC TKR, LLC and its subsidiaries, operating under its immediate corporate parent, CSC Holdings, LLC – which were formerly indirect wholly-owned subsidiaries of Cablevision Systems Corporation that were acquired by Altice N.V. in 2016 in a transaction and financing approved by the Board in May 2016. Altice USA separated from Altice N.V. in March 2018.

Altice USA acquired Cequel on December 21, 2015 and through Cequel's subsidiaries, service is offered under the Suddenlink brand in 17 other states, principally in the South-Central United States.

After review, Staff recommended that the Board approve the Transaction.

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

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



**4. TELECOMMUNICATIONS**

There were no items in this category.

**5. WATER**

**A. Docket No. WF18070705 – In the Matter of Middlesex Water Company for Approval to Issue up to 300,000 Shares of Common Stock under the Company's 2018 Restricted Stock Plan.**

**Benjamin Witherell, Chief Economist, Office of the Economist,** presented this matter.

**BACKGROUND AND DISCUSSION:** On July 9, 2018, Middlesex Water Company (Company, Middlesex, or Petitioner) filed a petition with the Board requesting authority to issue up to 300,000 shares of Common Stock under a 2018 Restricted Stock Plan (Plan).

Middlesex indicated that the purpose of the Plan is to advance the interests of the Company and its stockholders by providing long-term incentives, in addition to current compensation, to attract and retain key employees of the Company who have contributed, or are likely to contribute, significantly to the long-term performance and growth of the Company that will benefit Middlesex's customers.

Among the factors considered by the Company in determining eligibility for an award under the Plan are: (a) leadership goals, designed to focus on fostering a company culture based on ethical behavior, mutual respect, open and honest communication, and continued improvement and accountability for performance; (b) operational goals, designed to focus on training, development, operational excellence, and service quality; and (c) financial goals, designed to continue to attract equity investors and maintain and improve the Company's high quality credit rating.

Pursuant to the terms of the Plan, issuance of 300,000 shares of common stock, no par value, may be made over a 10-year period. Shares of stock which are to be awarded under the Plan may be obtained by the Company from its treasury, by purchases on the open market or from private sources, or by issuing authorized but unissued stock. The Petitioner represented that the Plan also provides for an adjustment in the number and kinds of shares to be issued under the Plan in the event of certain events, including stock splits, recapitalizations, or exchanges of shares.

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

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

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

**Michael Kammer, Bureau Chief, Division of Water**, presented these matters.

**B. Docket No. WM18030266 – In the Matter of the Merger of SUEZ Water NJ, Inc., SUEZ Water Toms River Inc., SUEZ Water Arlington Hills, Inc. SUEZ Water West Milford Inc., SUEZ Water Princeton Meadows Inc. and SUEZ Water Matchaponix, Inc.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. On March 15, 2018, SUEZ Water NJ, Inc., SUEZ Water Toms River Inc., SUEZ Water Arlington Hills, Inc. SUEZ Water West Milford Inc., SUEZ Water Princeton Meadows Inc. and SUEZ Water Matchaponix, Inc. (collectively, Petitioners) filed a Joint petition with the Board seeking approval of a consolidation by a corporate reorganization intended to combine the joint petitioning entities into SUEZ Water New Jersey, Inc. (SWNJ), which will remain a subsidiary of SUEZ Water Resources Inc.

The proposed consolidation will not have an impact on the rates charged by the SUEZ Companies as rates will not change or increase as a result of the proposed merger.

Staff recommended that the Board approve the Petitioners' request to merge SUEZ Water Toms River, Inc., SUEZ Water Arlington Hills, Inc., SUEZ Water West Milford, Inc., SUEZ Water Princeton Meadows, Inc. and SUEZ Water Matchaponix, Inc. into SWNJ.

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

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

**C. Docket No. WR18050593 – In the Matter of the Joint Petition for Approval of an Increase in Rates for Water and Wastewater Service and Other Tariff Changes for SUEZ Water New Jersey, Inc., SUEZ Water Toms River, Inc., SUEZ Water Arlington Hills, Inc., SUEZ Water West Milford, Inc., SUEZ Water Princeton Meadows, Inc., and SUEZ Water Matchaponix, Inc.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. On March 15, 2018, SUEZ Water New Jersey, Inc., SUEZ Water Toms River, Inc., SUEZ Water Arlington Hills, Inc., SUEZ Water West Milford, Inc., SUEZ Water Princeton Meadows, Inc., and SUEZ Water Matchaponix, Inc. (Petitioners) filed a Joint Petition with the Board seeking approval of a consolidation between the entities to be effectuated by a corporate reorganization intended to combine the joint petitioning entities into SUEZ Water New Jersey, Inc. (SWNJ), which will remain a subsidiary of SUEZ Water Resources Inc.

By letter dated June 1, 2018, the Petitioners amended the Joint Petition seeking approval of a Money Pool Agreement and an Affiliated Sector Agreement.

The proposed consolidation will not have an impact on the rates charged by the SUEZ Companies as rates will not change or increase as a result of the proposed merger.

Staff recommended that the Board approve the Petitioners' request to merge into SWNJ, with SWNJ being the remaining utility in New Jersey operating all of the various systems of the Petitioners.

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

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

## **6. RELIABILITY & SECURITY**

There were no items in this category.

## **7. CUSTOMER ASSISTANCE**

**Eric Hartsfield, Director, Division of Customer Assistance**, presented these matters.

**A. Docket Nos. WO18070797, WO18070798 and WO18070799 – In the Matter of the Petitions of Pinelands Water Company, Pinelands Wastewater Company and Middlesex Water Company for Approval of the Relocation of their Business Office Pursuant to N.J.A.C. 14:3-5.1(c) and (e).**

**BACKGROUND AND DISCUSSION:** On July 25, 2018, Pinelands Water Company and Pinelands Wastewater Company, wholly-owned subsidiaries of Middlesex Water Company, and Middlesex Water Company (collectively, Companies), filed petitions and supporting affidavits with the Board for approval of the relocation of their Iselin business office from 1500 Ronson Road (JRT Center) to 485 Route One South, Building C, Fourth Floor, Iselin, New Jersey, which is 0.3 miles from the current location. The Companies stated that following the completion of the relocation, substantial improvements and renovations will be made at the JRT Center to transform it into a dedicated training and field distribution center.

Board Staff and the New Jersey Division of Rate Counsel (Rate Counsel) determined that the Companies have complied with N.J.A.C. 14:3-5.1(c) and (e) in their entirety, including mailing copies of the petition, to the Clerk of the affected municipality, the Board, and the Rate Counsel.

The Companies stated that the relocation of the office is beneficial and will provide customers with the same high level of service. In addition, the Companies stated that the hours of operation at the current Iselin Office will continue at the new site. They further stated that the 485 Route One South location will comply with the American with Disabilities Act.

The Rate Counsel advised the Board by letter dated August 30, 2018 that it had no objections to the Companies relocation of their offices from 1500 Ronson Road, Iselin, New Jersey, to 485 Route One South, Building C, Fourth Floor, Iselin, New Jersey. The Board has received no letters in opposition to the relocation.

Staff recommended that the Board grant the Companies' request and authorize the relocation of the Companies' Iselin business office, currently located at 1500 Ronson Road

to 485 Route One South, Building C, Fourth Floor, Iselin, New Jersey.

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

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

**B. Docket Nos. BPU EC14111289U and OAL PUC 01414-15 – In the Matter of Phillip Grimes, Petitioner v. Atlantic City Electric Company, Respondent – Billing Dispute.**

**BACKGROUND AND DISCUSSION:** This matter involved a billing dispute between Phillip Grimes (Petitioner) and Atlantic City Electric (ACE or Company). The petition was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case. Administrative Law Judge (ALJ) Elia A. Pelios filed an Initial Decision in this matter with the Board on August 31, 2018.

The Petitioner stated that ACE attempted to disconnect his service for a debt that was discharged in bankruptcy court. Further, the Petitioner claimed at the time he had a medical emergency equipment certificate on file with the Company.

ACE, in its answer dated January 9, 2015, denied the allegations that the Company attempted to collect any debts discharged in bankruptcy. ACE claimed that the debt they tried to collect were post-bankruptcy charges incurred subsequent to May 11, 2013, when charges became collectible. ACE further contended that services were supplied and billed in accordance with terms and conditions and rate schedules set forth in its Board approved Tariff. ACE requested that the relief sought be denied on the basis that the Petitioner failed to set forth a claim upon which relief may be granted.

On April 4, 2017, OAL scheduled a dial-in telephone conference but the Petitioner failed to dial-in. The Petitioner never communicated an explanation as to his inability to participate in the dial-in telephone prehearing conference. On May 5, 2017, ACE requested that the matter be dismissed. No response to the request for dismissal or any communication by the Petitioner was received.

ALJ Pelios, in his Initial Decision, concluded that the matter should be dismissed for lack of prosecution.

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

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

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

**8. CLEAN ENERGY**

**B. Scott Hunter, Manager, Division of Clean Energy,** presented these matters.

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

**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 SRECs to Certified Brownfield, Historic Fill and Landfill Facilities; and**

**Docket No. QO17050523 – Public Service Electric and Gas Company Highland Park Borough Landfill.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. On April 6, 2017, Public Service Electric and Gas Company (PSE&G) submitted an application to the Board to have its project certified as being located on a properly closed sanitary landfill facility pursuant to N.J.S.A. 48:3-87(t) (Subsection (t)) of the Solar Act. PSE&G's 0.62016 MWdc project is proposed to be constructed on 1.74 acres of land owned by Highland Park Borough and located at Block 49, Lots 41–56, on Donaldson Street in Highland Park Borough, Middlesex County, New Jersey.

Subsection (t) of the Solar Act of 2012, L. 2012, c. 24, enacted July 23, 2012, codified in part at N.J.S.A. 48:3-87 (t), provides for the Board establishment of a certification program for approval of certain grid supply solar electric power generation facilities located on properly closed landfills, brownfields, and areas of historic fill that seek eligibility for Solar Renewable Energy Certificates. On January 23, 2013, after conducting a public proceeding that the Board commenced on October 4, 2012, the Board established a certification program and directed staff to work with New Jersey Department of Environmental Protection (NJDEP) to develop an application.

Following review of the application and the advisory memorandum provided by the NJDEP, Staff recommended that the Board grant conditional certification based on the NJDEP determination that the project proposed by PSE&G is located on property defined as a "properly closed sanitary landfill" consistent with the Solar Act of 2012.

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

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

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

**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 SRECs to Certified Brownfield, Historic Fill and Landfill Facilities; and**

**Docket No. QO18040432 – Aero Haven Solar, LLC  
Aero Haven Landfill.**

**BACKGROUND AND DISCUSSION:** On March 28, 2018, Aero Haven Solar, LLC submitted an application to the Board to have its project certified as being located on a properly closed sanitary landfill facility pursuant to N.J.S.A. 48:3-87(t) (Subsection (t)) of the Solar Act. Aero Haven Solar, LLC 3.38 MWdc project is proposed to be constructed on the property, which is owned by Owens Corning Corporation and located at Block 63, Lots 1, on 450 Kettle Run Road in Evesham Township, Burlington County, New Jersey.

Subsection (t) of the Solar Act of 2012, L. 2012, c. 24, enacted July 23, 2012, codified in part at N.J.S.A. 48:3-87 (t), provides for Board establishment of a certification program for approval of certain grid supply solar electric power generation facilities located on properly closed landfills, brownfields, and areas of historic fill that seek eligibility for Solar Renewable Energy Certificates. On January 23, 2013, after conducting a public proceeding that the Board commenced on October 4, 2012, the Board established a certification program and directed staff to work with New Jersey Department of Environmental Protection (NJDEP) to develop an application.

Following review of the application and the advisory memorandum provided by the NJDEP, Staff recommended that the Board grant conditional certification based on the NJDEP determination that the project proposed by Aero Haven Solar, LLC is located on property defined as a “properly closed sanitary landfill” consistent with the Solar Act of 2012.

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

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

**C. Docket No. QO18030297 – In the Matter of Marina Energy, LLC – Seeking a Declaratory Judgement Pursuant to N.J.S.A. 58:14B-1 et seq.**

**Kenneth J. Sheehan, Esq., Director, Division of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** The statutory and regulatory authority for net-metering is codified at N.J.S.A. 48:3-87(e) and implemented through N.J.A.C. 14:8-4. The statute limits net metering to customers “that generate electricity, on the customer’s side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period.” N.J.S.A. 48:3-87(e)(1).

On March 22, 2018, Marina Energy, LLC (Petitioner) filed a petition with the Board for a declaratory ruling that if certain lots and blocks were merged, the Petitioner’s solar

electricity generation facility would meet the Board's requirements to be net metered. The 3.1 MW DC solar electricity generation facility, the interconnection facilities, and the properties to be served are all located within the property of Chrystal Springs Resort Development (CSRD). According to the Petitioner, CSRD has agreed to pursue a consolidation plan which would result in the solar generation facility property being contiguous with the property on which its generation would be consumed.

Staff recommended that the Board determine that, if the properties are consolidated as described in the petition, the property on which the solar facility is located will be contiguous to the property upon which the energy it produces will be consumed. Therefore, Staff recommended that the Board grant the Petitioner's request with respect to that issue.

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

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

## 9. MISCELLANEOUS

**Thomas Walker, Director, State Energy Services Division,** presented these matters.

### **A. Docket No. EO18080899 – In the Matter of the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants.**

**BACKGROUND AND DISCUSSION:** This matter was presented to the Board for approval of the application, application process, and rulings on motions to intervene in the Zero Emissions Credit (ZEC) program. The ZEC program and the steps required to establish this program are in accordance with the law signed by Governor Murphy on May 23, 2018. Approval of these Orders will formally release the ZEC Application and open the application window, effective immediately. Any nuclear generating units can apply to the program until December 19, 2018. Determination of an applicant's eligibility and ranking of the unit, if deemed eligible, will be presented to the Board at the April 2019 agenda meeting.

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to -87.7) (Act). The Act requires the Board to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs). Certain eligible nuclear energy generators in the Pennsylvania Jersey Maryland, Inc. (PJM) footprint may be approved to provide ZECs for the State's energy supply. The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and the timelines associated with each aspect of the legislation.

The Act requires that the Board complete multiple tasks within a defined timeline: hold a proceeding within 180 days after the date of enactment of the Act to establish a method and application process for determination of the eligibility and selection of nuclear power plants and establish a mechanism for each Electric Distribution Companies (EDC) to purchase ZECs from selected nuclear power plants; hold a proceeding to certify applicant nuclear power plants as eligible for the program; establish a rank-ordered list of the nuclear power plants eligible to be selected to receive ZECs; and require that the EDCs file with the Board

a tariff to recover from its retail distribution customers a charge in the amount of \$0.004 per kilowatt-hour.

The Act grants the Board discretion to establish what information is required to perform a complete and thorough review of a plant's need for ZECs. Therefore, the application consists of numerous questions and the required supporting documents, studies, certifications, and narratives to insure the eligibility of an applicant. To be eligible, each applicant must: 1) be licensed by the U.S. Nuclear Regulatory Commission through 2030, 2) demonstrate a significant and material contribution to New Jersey air quality (minimizing emissions), 3) demonstrate anticipated plant shutdown within three years due to its financial situation, 4) certify that the facility does not receive any subsidies from other entities or agencies, and 5) submit an application fee. The application is designed to capture all information that Board Staff deems necessary and relevant to properly determine eligibility of an applicant unit. The application shall be submitted on a unit basis.

The deadline for receipt of completed applications for a nuclear generating unit that seeks ZECs is December 19, 2018 to the Board Secretary. Each application will be given a separate docket number for the purposes of filing. Requests for access to confidential information submitted as part of the applications must be submitted to the Board by December 31, 2018. As Presiding Officer, President Fiordaliso will issue a decision on all such requests by January 15, 2019. Comments on applications must be submitted to the Board by January 31, 2019.

Two teams have been established to evaluate the various requirements of the ZEC program and ensure proper review of received applications based on the five criteria set forth in the ZEC Act. One team will determine the eligibility of applicant units (Eligibility team), and the other team will score and rank eligible units (Ranking team). The evaluation by the Eligibility team will determine either acceptance or denial of each application. An application deemed eligible will then be submitted to the "Ranking" team for scoring and comparison to other eligible applicant Units. The two teams will operate separately from and independent of one another. The teams will be comprised of Board Staff, New Jersey Department of Environmental Protection staff, and Staff's consultant and commence work on January 2, 2019.

Three public hearings were held on the program, and comments were accepted until October 22, 2018. Those comments and hearing statements were used to finalize the application and ZEC program process where appropriate.

Six entities filed motions to intervene or participate in the program proceedings. The New Jersey Division of Rate Counsel (Rate Counsel) filed a Motion for Access to Confidential Information, and five motions were filed to intervene or participate in the proceedings by the New Jersey Large Energy Users Coalition (NJLEUC), PJM Independent Market Monitor (IMM), NRG Energy, Inc. (NRG), PJM Power Providers Group, and PSE&G, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies). In addition, NJLEUC and the IMM filed motions for Admission pro hac vice.



Staff recommended that the Board order that the ZEC Program be implemented to comply with the Act, that:

- a) The Board determine that the ZEC application and process to file a redacted and unredacted version of the application is sufficient to meet the application requirements and that the program procedures provide a full and complete record for the eligibility determination of an applicant;
- b) The Board approve the ZEC application and order that the ZEC application window is open effective immediately and will remain open until December 19;
- c) The Board set the December 31, 2018, deadline for a request for access to confidential information of the applications and set January 31, 2019, as the deadline for comments on a particular application;
- d) The Board approve the implementation schedule of the procedural schedule for the application of eligibility ranking; and
- e) The Board grant Rate Counsel and IMM full access to all application information, including confidential documents, as they are deemed essential in the Board's review of the applications and that an applicant claiming confidentiality of the application and submissions must state the specific sections of its submitted application that it considers confidential and detail as to why the information should be protected.

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

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

**B. Docket No. EO18080899 – In the Matter of the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. This matter was presented to the Board for approval of the application, application process, and rulings on motions to intervene in the Zero Emissions Credit (ZEC) program. The ZEC program and the steps required to establish this program are in accordance with the law signed by Governor Murphy on May 23, 2018. Approval of these Orders will formally release the ZEC Application and open the application window, effective immediately. Any nuclear generating units can apply to the program until December 19, 2018. Determination of an applicant's eligibility and ranking of the unit, if deemed eligible, will be presented to the Board at the April 2019 agenda meeting.

On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to -87.7) (Act). The Act requires the Board to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs). Certain eligible nuclear energy generators in the Pennsylvania Jersey Maryland, Inc. (PJM) footprint may be approved to provide ZECs for the State's energy supply. The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and the timelines associated with each aspect of the legislation.

The Act requires that the Board complete multiple tasks within a defined timeline: hold a proceeding within 180 days after the date of enactment of the Act to establish a method and application process for determination of the eligibility and selection of nuclear power plants and establish a mechanism for each Electric Distribution Companies (EDC) to purchase ZECs from selected nuclear power plants; hold a proceeding to certify applicant nuclear power plants as eligible for the program; establish a rank-ordered list of the nuclear power plants eligible to be selected to receive ZECs; and require that the EDCs file with the Board a tariff to recover from its retail distribution customers a charge in the amount of \$0.004 per kilowatt-hour.

The Act grants the Board discretion to establish what information is required to perform a complete and thorough review of a plant's need for ZECs. Therefore, the application consists of numerous questions and the required supporting documents, studies, certifications, and narratives to insure the eligibility of an applicant. To be eligible, each applicant must: 1) be licensed by the U.S. Nuclear Regulatory Commission through 2030, 2) demonstrate a significant and material contribution to New Jersey air quality (minimizing emissions), 3) demonstrate anticipated plant shutdown within three years due to its financial situation, 4) certify that the facility does not receive any subsidies from other entities or agencies, and 5) submit an application fee. The application is designed to capture all information that Board Staff deems necessary and relevant to properly determine eligibility of an applicant unit. The application shall be submitted on a unit basis.

The deadline for receipt of completed applications for a nuclear generating unit that seeks ZECs is December 19, 2018 to the Board Secretary. Each application will be given a separate docket number for the purposes of filing. Requests for access to confidential information submitted as part of the applications must be submitted to the Board by December 31, 2018. As Presiding Officer, President Fiordaliso will issue a decision on all such requests by January 15, 2019. Comments on applications must be submitted to the Board by January 31, 2019.

Two teams have been established to evaluate the various requirements of the ZEC program and ensure proper review of received applications based on the five criteria set forth in the ZEC Act. One team will determine the eligibility of applicant units (Eligibility team), and the other team will score and rank eligible units (Ranking team). The evaluation by the Eligibility team will determine either acceptance or denial of each application. An application deemed eligible will then be submitted to the "Ranking" team for scoring and comparison to other eligible applicant Units. The two teams will operate separately from and independent of one another. The teams will be comprised of Board Staff, New Jersey Department of Environmental Protection staff, and Staff's consultant and commence work on January 2, 2019.

Three public hearings were held on the program, and comments were accepted until October 22, 2018. Those comments and hearing statements were used to finalize the application and ZEC program process where appropriate.

Six entities filed motions to intervene or participate in the program proceedings. The New Jersey Division of Rate Counsel (Rate Counsel) filed a Motion for Access to Confidential Information, and five motions were filed to intervene or participate in the proceedings by the New Jersey Large Energy Users Coalition (NJLEUC), PJM Independent Market Monitor (IMM), NRG Energy, Inc. (NRG), PJM Power Providers Group, and PSE&G, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies). In addition, NJLEUC and the IMM filed

motions for Admission pro hac vice.

Staff recommended that the Board grant the Rate Counsel and the IMM full access to all application information, including confidential documents as they are essential to aiding the Board's review of the applications.

Staff also recommended that NJLEUC, NRG, P3, and the PSEG Companies be granted participant status in order to be able to comment on applications but not access the confidential information due to competition concerns, and that the Board grant the IMM's motion for admission pro hac vice.

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

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

**C. Docket No. EO18091002 – In the Matter of Jersey Central Power and Light Company for Review and Approval of a Zero Emission Certificate Recovery Charge.**

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to 87.7) (Act). The Act requires the Board to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators in the PJM Interconnection, LLC (PJM) footprint may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four investor-owned electric distribution companies, i.e., Atlantic City Electric, Jersey Central Power & Light Company (JCP&L or Company), Public Service Electric and Gas Company (PSE&G), and Rockland Electric Company, and municipal electric distribution company Butler Electric Utility (Butler) (collectively, EDCs). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and timelines associated with each aspect of the legislation.

By Order dated August 29, 2018, the Board directed the EDCs to file tariffs in compliance with the Act by October 22, 2018 for approval by the Board. On September 20, 2018, JCP&L submitted its request for Board approval for JCP&L to recover from its retail distribution customers a non-bypassable, irrevocable charge in the amount of \$0.004 per kilowatt-hour (ZEC charge). The request included a proposed tariff sheet and a notice of filing and public hearings scheduling three public hearings. JCP&L held three public hearings in its service territory. The first was held in Freehold on Tuesday, October 16, 2018 at 3:30 P.M. and 5:30 P.M. One member of the public attended, and one comment was received, questioning the need for the ZEC charge. The second hearing was held in Morristown on Tuesday, October 23, 2018 at 3:30 P.M. and 5:30 P.M. One member of the public attended, and no comments were received. The final hearing was held in Mt. Holly on Thursday, October 25, 2018 at 3:30 P.M. and 5:30 P.M. No members of the public attended, and no written comments were received.

After filing its initial tariff, on September 20, 2018, Board Staff advised all EDCs to submit modified and uniform tariffs by November 19, 2018, consistent with discussions held among the EDCs, the New Jersey Division of Rate Counsel, and Staff. All EDCs were directed to update the proposed tariffs to include language regarding the commencement of the collection of interest and the disposition of the interest collected in accordance with the Act. On November 19, 2018, JCP&L filed its revised proposed tariff.

By letter dated October 19, 2018, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (IMM) for PJM, filed a motion to intervene in the underlying Board established ZEC proceeding, and in the individually proposed tariff filings made by the EDCs. The IMM stated that it is an organization created to objectively monitor the competitiveness of PJM markets and that PJM's Open Access Transmission Tariff requires the IMM to monitor compliance with PJM market rules, actual or potential design flaws in PJM market rules, structural problems in the PJM market that may inhibit a robust and competitive market, and the potential for a market participant to exercise market power or violate any PJM rules.

Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies) submitted a brief dated October 29, 2018 in opposition to the IMM's motion to intervene, arguing that the IMM failed to satisfy the statutory criteria requiring it to demonstrate that it is "essential" to aid the Board in making the determinations required under the Act and asserting that the IMM failed to satisfy the regulatory criteria for intervention.

Staff found that the tariff proceedings do not warrant the IMM's assistance and that the IMM will not add measurably and constructively to the scope of the individual EDC proposed tariff filings. Staff recommended that the Board Deny the IMM's motion to intervene in the individual EDC tariff filings.

Staff recommended that the Board, accept JCP&L's modified tariff, which sought to implement a non-bypassable, irrevocable charge in the amount of \$0.004 per kWh (excluding SUT). Staff also recommended that the tariff is not to be implemented unless and until the Board issues a final order authorizing the Company to implement the ZEC program.

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

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

**D. Docket No. EO18091003 – In the Matter of the Application of Atlantic City Electric Company for Approval to Implement a Zero Emission Certificate (ZEC) Charge and Tariff Page(s) Related Thereto in Support of the ZEC Program Authorized by N.J.S.A. 48:3-87.3 et seq. and a Board Order Initiating the ZEC Program Dated 8/29/18.**

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to 87.7) (Act). The Act requires the New Jersey Board of

Public Utilities (Board) to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators in the PJM Interconnection, LLC (PJM) footprint may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four investor-owned electric distribution companies, i.e., Atlantic City Electric (ACE or Company), Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company, and municipal electric distribution company Butler Electric Utility (collectively, EDCs). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and timelines associated with each aspect of the legislation.

By Order dated August 29, 2018, the Board directed the EDCs to file tariffs in compliance with the Act by October 22, 2018 for approval by the Board. On September 20, 2018, ACE submitted its request for Board approval for ACE to recover from its retail distribution customers a non-bypassable, irrevocable charge in the amount of \$0.004 per kilowatt-hour (ZEC charge). The request included a proposed tariff sheet and a notice of filing and public hearings scheduling two public hearings. ACE held two public hearings in its service territory in Mays Landing on Monday, October 22, 2018 at 3:30 P.M. and 5:30 P.M. No members of the public attended, and no written comments were received.

After ACE filed its initial tariff on September 20, 2018, Board Staff (Staff) advised all EDCs to submit modified and uniform tariffs, consistent with discussions held among the EDCs, the New Jersey Division of Rate Counsel, and Staff. All EDCs were directed to update the proposed tariffs to include language regarding the commencement of the collection of interest and the disposition of the interest collected in accordance with the Act.

By letter dated October 19, 2018, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (IMM) for PJM, filed a motion to intervene in the underlying Board established ZEC proceeding, and in the individually proposed tariff filings made by the EDCs. The IMM states that it is an organization created to objectively monitor the competitiveness of PJM markets and that PJM's Open Access Transmission Tariff requires the IMM to monitor compliance with PJM market rules, actual or potential design flaws in PJM market rules, structural problems in the PJM market that may inhibit a robust and competitive market, and the potential for a market participant to exercise market power or violate any PJM rules.

Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies) submitted a brief dated October 29, 2018, in opposition to the IMM's motion to intervene, arguing that the IMM failed to satisfy the statutory criteria requiring it to demonstrate that it is "essential" to aid the Board in making the determinations required under the Act and asserting that the IMM failed to satisfy the regulatory criteria for intervention.

Staff found that the tariff proceedings do not warrant the IMM's assistance and that the IMM will not add measurably and constructively to the scope of the individual EDC proposed tariff filings. Staff recommended that the Board deny the IMM's motion to intervene in the individual EDC tariff filings.

Staff also recommended that the Board direct ACE to file a tariff in conformance with the tariff provided to the Company by Staff on November 16, 2018, within 10 days of the effective date of this order. The tariff is not to be implemented unless and until the Board issues a final order authorizing the Company to implement the ZEC program.

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

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

**E. Docket No. EO18091004 – In the Matter of Public Service Electric and Gas Company’s Request for Approval of a Zero Emission Certificate Recovery Charge.**

**BACKGROUND AND DISCUSSION:** Commissioner Gordon recused himself from this matter. On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to 87.7) (Act). The Act requires the New Jersey Board of Public Utilities (Board) to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators in the PJM Interconnection, LLC (PJM) footprint may be approved to provide ZECs for the State’s energy supply, which in turn will be purchased by New Jersey’s four investor-owned electric distribution companies, i.e., Atlantic City Electric, Jersey Central Power & Light Company, Public Service Electric and Gas Company (PSE&G), and Rockland Electric Company, and municipal electric distribution company Butler Electric Utility (collectively, EDCs). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and timelines associated with each aspect of the legislation.

By Order dated August 29, 2018, the Board directed the EDCs to file tariffs in compliance with the Act by October 22, 2018 for approval by the Board. On October 30, 2018, PSE&G submitted its request for Board approval for PSE&G to recover from its retail distribution customers a non-bypassable, irrevocable charge in the amount of \$0.004 per kilowatt-hour (ZEC charge). The request included a proposed tariff sheet and a notice of filing and public hearings scheduling three public hearings. PSE&G held three public hearings in its service territory, the first in New Brunswick on Wednesday, October 17, 2018 at 3:30 P.M. and 5:30 P.M. No members of the public attended the hearing, and no written comments were received. The second hearing was in Mt. Holly on Thursday, October 18, 2018 at 3:30 P.M. and 5:30 P.M. No members of the public attended the hearing, and no written comments were received. The final hearing was held in Hackensack on Tuesday, October 23, 2018 at 3:30 P.M. and 5:30 P.M. No members of the public attended the hearing, and no written comments were received.

After filing its initial tariff on October 30, 2018, Board Staff (Staff) advised all EDCs to submit modified and uniform tariffs, consistent with discussions held among the EDCs, the New Jersey Division of Rate Counsel, and Staff. All EDCs were directed to update the proposed tariffs to include language regarding the commencement of the collection of

interest and the disposition of the interest collected in accordance with the Act. On November 19, 2018, PSE&G filed its revised proposed tariff.

By letter dated October 19, 2018, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (IMM) for PJM, filed a motion to intervene in the underlying Board established ZEC proceeding, and in the individually proposed tariff filings made by the EDCs. The IMM stated that it is an organization created to objectively monitor the competitiveness of PJM markets and that PJM's Open Access Transmission Tariff requires the IMM to monitor compliance with PJM market rules, actual or potential design flaws in PJM market rules, structural problems in the PJM market that may inhibit a robust and competitive market, and the potential for a market participant to exercise market power or violate any PJM rules.

Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies) submitted a brief dated October 29, 2018, in opposition to the IMM's motion to intervene, arguing that the IMM failed to satisfy the statutory criteria requiring it to demonstrate that it is "essential" to aid the Board in making the determinations required under the Act and asserting that the IMM failed to satisfy the regulatory criteria for intervention.

Staff found that the tariff proceedings do not warrant the IMM's assistance and that the IMM will not add measurably and constructively to the scope of the individual EDC proposed tariff filings. Staff recommended that the Board deny the IMM's motion to intervene in the individual EDC tariff filings.

Staff also recommended that the Board, direct PSE&G to file a tariff in conformance with the tariff provided to the Company by Staff on November 16, 2018, within 10 days of the effective date of this order. The tariff is not to be implemented unless and until the Board issues a final order authorizing the Company to implement the ZEC program.

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

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

**F. Docket No. EO18091005 – In the Matter of Rockland Electric Company's Filing for Review and Approval of the Zero Emission Certificate Recovery Charge.**

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to 87.7) (Act). The Act requires the New Jersey Board of Public Utilities (Board) to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators in the PJM Interconnection, LLC (PJM) footprint may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four investor-owned electric distribution companies, i.e., Atlantic City Electric, Jersey Central Power & Light Company, Public Service Electric and

Gas Company (PSE&G), and Rockland Electric Company (RECO), and municipal electric distribution company Butler Electric Utility (collectively, EDCs). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and timelines associated with each aspect of the legislation.

By Order dated August 29, 2018, the Board directed the EDCs to file tariffs in compliance with the Act by October 22, 2018 for approval by the Board. On September 20, 2018, Rockland Electric Company (RECO or Company) submitted its request for Board approval for RECO to recover from its retail distribution customers a non-bypassable, irrevocable charge in the amount of \$0.004 per kilowatt-hour (ZEC charge). The request included a proposed tariff sheet and a notice of filing and public hearings scheduling two public hearings. RECO held two public hearing in its territory in Mahwah Township on Friday, October 19, 2018 at 4:00 P.M. and 6:00 P.M. No members of the public attended these hearings, and no written comments were received.

After filing its initial tariff on September 20, 2018, Board Staff (Staff) advised all EDCs to submit modified and uniform tariffs by November 19, 2018, consistent with discussions held among the EDCs, the New Jersey Division of Rate Counsel, and Staff. All EDCs were directed to update the proposed tariffs to include language regarding the commencement of the collection of interest and the disposition of the interest collected in accordance with the Act. On November 19, RECO submitted a letter stating that the Company will submit its revised proposed tariff.

By letter dated October 19, 2018, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (IMM) for PJM, filed a motion to intervene in the underlying Board established ZEC proceeding, and in the individually proposed tariff filings made by the EDCs. The IMM states that it is an organization created to objectively monitor the competitiveness of PJM markets and that PJM's Open Access Transmission Tariff requires the IMM to monitor compliance with PJM market rules, actual or potential design flaws in PJM market rules, structural problems in the PJM market that may inhibit a robust and competitive market, and the potential for a market participant to exercise market power or violate any PJM rules.

Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies) submitted a brief dated October 29, 2018, in opposition to the IMM's motion to intervene, arguing that the IMM failed to satisfy the statutory criteria requiring it to demonstrate that it is "essential" to aid the Board in making the determinations required under the Act and asserting that the IMM failed to satisfy the regulatory criteria for intervention.

Staff found that the tariff proceedings do not warrant the IMM's assistance and that the IMM will not add measurably and constructively to the scope of the individual EDC proposed tariff filings. Staff recommended that the Board deny the IMM's motion to intervene in the individual EDC tariff filings.

Staff also recommended the Board direct RECO to file a tariff in conformance with the tariff provided to the Company by Staff on November 16, 2018, within 10 days of the effective date of this order. The tariff is not to be implemented unless and until the Board issues a final order authorizing the Company to implement the ZEC program.



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

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

**G. Docket No. EO18091018 – In the Matter of the Application of Butler Electric Utility for Approval to Implement a Zero Emission Certificate (ZEC) Charge and Tariff Page(s) Related Thereto in Support of the ZEC Program Authorized by N.J.S.A. 48:3-87.3 et seq. and a Board Order Initiating the ZEC Program, Dated August 29, 2018.**

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to 87.7) (Act). The Act requires the New Jersey Board of Public Utilities (Board) to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators in the PJM Interconnection, LLC (PJM) footprint may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four investor-owned electric distribution companies, i.e., Atlantic City Electric, Jersey Central Power & Light Company, Public Service Electric and Gas Company (PSE&G), and Rockland Electric Company, and municipal electric distribution company Butler Electric Utility (Butler) (collectively, EDCs). The Act identifies the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and timelines associated with each aspect of the legislation.

By Order dated August 29, 2018, the Board directed the EDCs to file tariffs in compliance with the Act by October 22, 2018 for approval by the Board. On October 9, 2018, Butler Electric Utility (Butler or Company) submitted its request for Board approval for Butler to recover from its retail distribution customers a non-bypassable, irrevocable charge in the amount of \$0.004 per kilowatt-hour (ZEC charge). The request included a proposed tariff sheet and a notice of filing and public hearings scheduling two public hearings. Butler held one public hearing in its territory, Borough of Butler, on Tuesday, October 30, 2018 at 4:00 P.M. and 6:00 P.M. No members of the public attended the hearing, and no written comments were received.

After filing its initial tariff on October 9, 2018, Board Staff (Staff) advised all EDCs to submit modified and uniform tariffs by November 19, 2018, consistent with discussions held among the EDCs, the New Jersey Division of Rate Counsel, and Staff. All EDCs were directed to update the proposed tariffs to include language regarding the commencement of the collection of interest and the disposition of the interest collected in accordance with the Act. On November 19, 2018, Butler filed its revised proposed tariff.

By letter dated October 19, 2018, Monitoring Analytics, LLC, acting in its capacity as the Independent Market Monitor (IMM) for PJM, filed a motion to intervene in the underlying Board established ZEC proceeding, and in the individually proposed tariff filings made by the EDCs. The IMM stated that it is an organization created to objectively monitor the

competitiveness of PJM markets and that PJM's Open Access Transmission Tariff requires the IMM to monitor compliance with PJM market rules, actual or potential design flaws in PJM market rules, structural problems in the PJM market that may inhibit a robust and competitive market, and the potential for a market participant to exercise market power or violate any PJM rules.

Public Service Electric and Gas Company, PSEG Power LLC, and PSEG Nuclear LLC (PSEG Companies) submitted a brief dated October 29, 2018 in opposition to the IMM's motion to intervene, arguing that the IMM failed to satisfy the statutory criteria requiring it to demonstrate that it is "essential" to aid the Board in making the determinations required under the Act and asserting that the IMM failed to satisfy the regulatory criteria for intervention.

Staff found that the tariff proceedings do not warrant the IMM's assistance and that the IMM will not add measurably and constructively to the scope of the individual EDC proposed tariff filings. Staff recommended that the Board deny the IMM's motion to intervene in the individual EDC tariff filings.

Staff also recommended that the Board accept Butler's modified tariff, which seeks to implement a non-bypassable, irrevocable charge in the amount of \$0.004 per kWh (excluding SUT).

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

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

After appropriate motion, the Board reconvened to Open Session.

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



AIDA CAMACHO-WELCH  
SECRETARY OF THE BOARD

Date: January 17, 2019