



State of New Jersey
DIVISION OF RATE COUNSEL
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Director

November 2, 2022

Members of the Senate Economic Growth Committee
Statehouse Annex
P.O. Box 068
Trenton, N. J. 08625

RE: S3184 (Establishes "Resiliency and Environmental System Investment Charge Program.")

Members of the Senate Economic Growth Committee:

I write on behalf of the Division of Rate Counsel regarding S3184 (Establishes Resiliency and Environmental System Investment Charge Program.), which is up before the committee on November 3, 2022. I regret that I will not be able to attend the meeting, but hope you will consider our comments. We have concerns that this bill could create unnecessary charges on ratepayers' water and wastewater bills and usurp existing and important ratepayer protections that could have a significant financial impact on ratepayers. We urge you not to pass this bill out of committee.

As you are aware, Rate Counsel represents and protects the interests of all utility customers – residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water, and telecommunications policy that will affect the rendering of utility services well into the future.

Bill S3184, if passed, would legislate a new clause called the RESIC for water and wastewater utilities. Investments eligible for recovery outside a traditional base rate case under the clause include: (1) Direct or indirect compliance, including but not limited to those addressing chemical elements or compounds; (2) installation of new equipment to further resiliency, health and safety; and (3) replacement of equipment to further resiliency, health and safety.

Rate Counsel urges that this bill not be passed out of committee. As an initial matter, there is no proof that this bill is even needed. Water and wastewater utilities have an obligation to their ratepayers to ensure the resiliency, health and safety of the water they provide and the

wastewater they process. They do so and recover their investments in traditional base rate cases where all expenses—and revenues—are considered to ensure the utility earns an appropriate return without overcharging the ratepayer. There is no need to give these utilities a special clause to do what they are obligated to do. Secondly, the listed categories to be included in the clause are so vague that they are nearly unlimited. This can create the undesirable situation where these utilities can collect almost any type of investment through the RESIC. Finally, there is no need to legislate this topic. The Board of Public Utilities (Board) is the State agency charged with oversight over public utilities, and the Legislature should defer to the Board's expertise in a matter such as this. If the Board feels that the resiliency, health and safety of water and wastewater is a pressing matter, the Board is free to initiate a proceeding to investigate the issue. Indeed, the Board has already done so with accelerated recovery for infrastructure under the Distribution System Improvement Charge and Wastewater System Improvement Charge.

Finally, this bill leaves ratepayers exposed to significant rate increases outside of the normal rate case process. Water and wastewater utilities are free to make investments in resiliency, health and safety, but they should be done within the parameters and protection of rate cases. To the extent the Legislature is going to mandate this extraordinary recovery mechanism, it should consider ratepayer protections such as , a significant reduction in the authorized return on equity for RESIC investments in recognition of the reduced risk the mechanism will provide.

As the Committee is aware, there are many New Jersey residents and businesses that are struggling to pay their utility bills. The COVID-19 pandemic has been especially financially challenging for many households and families. There are nearly 1 million utility customers in arrears on their utility bills. It is clear that many ratepayers will face the real threat of losing utility service at some point. New Jersey's residents are financially hurting, and this bill will unnecessarily increase their burden without providing any actual benefit or protection.

For all of these reasons, Rate Counsel recommends that the bill not be passed out of committee.

We hope you will consider our comments. Please let us know if you have any questions. We very much appreciate the opportunity to share our comments on behalf of the State's ratepayers. Please feel free to contact our office if you have any questions. Thank you for your attention to these important matters.

Sincerely,

s/s Brian O. Lipman,

Brian O. Lipman, Esq.

Director, Division of Rate Counsel

c: Nohemi Soria, Chief of Staff, Sen. Cruz-Perez
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Robyn Roberts, Public Information Officer & Legislative Liaison, Rate Counsel