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**Remarks of Stefanie A. Brand,
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Regarding Utility Efforts and Next Steps for Utility Improvements Post Hurricane Sandy, Presented at the Assembly Telecommunications and Utilities Committee Meeting on
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Good morning. My name is Stefanie Brand, I am the Director of the Division of Rate Counsel. I would like to thank Chairman Chivukula and members of the committee for the opportunity to testify today regarding utility efforts and next steps for utility improvements following the aftermath of Hurricane Sandy.

The Division of Rate Counsel represents and protects the interest of all utility consumers—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 and/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.

Yesterday, I spoke at the Senate Budget and Appropriations Committee where legislators also heard representatives from utilities and other stakeholders

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regarding issues and improvements needed following Hurricane Sandy. I urged that committee, and will urge this committee as well to strike a proper balance as we look for solutions to address utility infrastructure, vulnerabilities to storms, and the myriad of issues resulting from Hurricane Sandy. It is important to remember that every measure we consider comes at a cost and that cost will be borne by the very same people who suffered from the outages that resulted from Sandy. It is also important to remember that Sandy truly was an historic storm. While it seems that we are having more frequent historic storms, this one was unusual and catastrophic. When storms like Sandy occur, there will be outages. I cannot, sitting here today, say that the time it took the utilities to restore service after Sandy was excessive. No one wants to suffer a long-term outage, but we can't create an expectation that outages will not occur or will be of a brief duration if we implement certain measures in the wake of a storm like Sandy. By far, the worst possible outcome would be to go on a spending spree, adding significantly to rates, and then have another storm of that magnitude and find ourselves again with lengthy and wide-spread outages.

We have to look at what measures we can take that will be cost-effective and will help with restoration and outage minimization. We have to look at what ratepayers can truly afford in terms of hardening measures. And we have to make sure that the utilities are spending the funds collected for reliability on reliability; that they are complying with the BPU's tree-trimming and reliability regulations, and that they are sharing in the responsibility of trying to address what appear certainly to be more frequent major storms.

By way of background, it is important to remember that utility rates already include funds to allow the utilities to respond to storms. For most of the utilities 3-5 year averages are used to determine the appropriate amount of potential storm related costs that are built into rates. Outliers like Sandy would not be included in those calculations, but reasonable and prudent storm restoration costs are recoverable by the utilities when they come in for a rate case. Also included in rates is a certain amount of spending for maintaining reliability. That number would be based on the amount spent during the "test year" used in the utility's last rate case. With that money, it is the utility's obligation to spend in order to maintain "safe, adequate and proper service," and to comply with the minimum reliability requirements that are set forth in BPU's regulations. Overall, PSE&G obtained a $74 million revenue requirement increase in 2010 for its electric operations, and ACE has had two rate cases over that time period, with a total revenue requirement increase of approximately $64 million. Spending for reliability was included in those numbers.

In addition to the amounts that ratepayers pay in base rates, over the last several years, ratepayers have been paying *additional* funds to allow most utilities to accelerate their infrastructure spending. As part of the economic stimulus programs instituted in 2009, the electric companies have been granted over $600 million to accelerate infrastructure spending. The vast majority of this was awarded to PSE&G, through two accelerated infrastructure programs, the first in 2009 for a total of $421 million, and the second in 2011 for $195 million. ACE obtained approval in 2009 for an additional $27.6 million. JCP&L did not

participate in this program; however, they were awarded additional funds for reliability spending in their last rate case in 2005. The gas companies had similar programs. While "reliability" for gas companies relates more to leak prevention than outages, it is important to note that the gas companies have been approved over the last several years to spend approximately $780 million on accelerated infrastructure projects in addition to funds provided through base rates.

So I submit that if there is a problem here, it is not that there are insufficient funds being paid by ratepayers for reliability and infrastructure upgrades. Instead, the issue may be how that money is being spent and whether it could be spent differently to address frequent and long-lasting outages. For example, in a recent rate case, Rate Counsel learned that one electric company was sending $1.08 of every $1.32 it earned to its shareholders, leaving only the difference to spend on its utility operations. It may be that more needs to be poured back into the business rather than being paid out in dividends.

The bottom line is that before we start letting the utilities spend on this fix and that fix, we need to figure out where the money we are already giving them is going. We also need to reject their efforts to obtain recovery of their costs outside of a rate case. It is only in a rate case that our office and the BPU get a comprehensive look at the utility's finances. We are able to determine whether they are spending on infrastructure and reliability measures adequately and whether there are cost savings in other areas that can offset any increases that are required to ensure proper service. If they are permitted contemporaneous recovery as many of the utilities have proposed, they are shifting the risks to the

ratepayers without reducing their return. They are also removing important safeguards to protect against imprudent spending, as a company is much more likely to think twice before spending its own money and risking that it may not get it back, than if the company is spending ratepayer money with virtually assured recovery.

It is also important that we look at the standards that are already in place to make sure they are strict enough and that they are enforced. The BPU has regulations at N.J.A.C. 14:5-8.1 et seq. setting minimum reliability standards based on industry metrics that measure the number of outages and their duration. Those standards were modified in 2008 to use the utility's own 5 year average to determine whether they have met the reliability standards. If a utility performed poorly over those 5 years, this modification had the effect of making the standards for some companies less rigorous. Those standards should be revisited to see if they should be made more rigorous. There are also vegetation management regulations at N.J.A.C. 14:5-9.1 et seq. Those regulations should be strictly enforced. Unfortunately, the only measure of compliance with these regulations is based on self-reporting by the utilities. Penalties for non-compliance with both the reliability and vegetation management regulations are woefully low. Rate Counsel supports recent efforts to enhance those penalties. We would also support enhancing the ability of BPU to perform inspections or otherwise verify the utilities' compliance with these regulations.

Once we have confirmed that utilities are appropriately spending the money we are already giving them and that they are complying with the

regulations that already govern them, we should then look at whether there are cost-effective measures that can be taken to alleviate the frequency and duration of some outages. The emphasis has to be on cost-effectiveness. There are many possible measures that could be cost-effective, such as taking measures to prevent flooding at substations or reroute power if a substation goes out. Others, however, such as advanced meters, may provide more information to utilities but do not pay for themselves when the cost is compared to the benefit. These meters are very expensive, do not contribute to restoration or reliability, and save consumers costs only in the form of lost jobs for meter readers. They are quite lucrative for the utilities, however, as they will fully recover the costs from ratepayers, tack on their 10-12% return and earn on this physical plant for the life of the meter, while they continue to recover for the fully functional meters they are replacing and that we are still paying for. Moreover, if we spend the money on advanced meters, there will be less to go around for other cost-effective measures to make the grid "smarter" on the utility side of the meter.

Undergrounding is also not a viable solution. The expense is astronomical. I have heard figures of $1 million - $2 million per linear mile. The impact on ratepayers' bills of trying any significant level of under-grounding would be suffocating to our state's economy. At the same time, undergrounding does not ensure that outages will not occur or be long-lasting. In fact, when an underground system floods it can often take longer to restore than an above-ground system.

In closing, I would ask that you please tread carefully and avoid calls to try to spend your way out of these problems. It's not likely to work, but it would certainly increase the burden on ratepayers who are already struggling to pay for the damage caused by this devastating storm. Let's not victimize the ratepayers of this state a second time by sharply increasing their utility bills without necessarily addressing the underlying problem.

I thank you for the opportunity to testify today. I am available to answer any questions.