



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

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

A Regular Board meeting of the Board of Public Utilities was held on March 9, 2020, at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

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

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

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

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

*Commissioner Holden was not present at this meeting.

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 March 25, 2020 at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

CONSENT AGENDA

I. AUDITS

There were no items in this category.

II. ENERGY

A. Docket No. ER20020146 – In the Matter of the Verified Petition of Jersey Central Power and Light Company for Review and Approval of Increases in and Other Adjustments to its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith (2020 Base Rate Filing).

BACKGROUND: On February 18, 2020, Jersey Central Power & Light (JCP&L or Company) filed a petition with the Board for approval of an increase in its operating revenues of approximately \$186.9 million, to be effective for electric service provided on or after March 19, 2020. The Company also sought Board approval to implement new depreciation rates. JCP&L's petition requested a return on equity of 10.15%.

The Company stated that their current electric distribution rates are not just and reasonable because they do not produce an adequate, reasonable return on the Company's invested capital, and do not provide sufficient revenues to recover the Company's investment in rate base or its operating expenses.

The Company's petition also included the following requests:

- Approval to change its electric and general plant depreciation rates;
- A review and roll in of capital investments made in the Company's Reliability Plus program; and
- Review and approval of certain modifications to the Company's tariff for electric service.

Since a review of this matter will not be complete prior to March 19, 2020, Staff recommended that the Board issue an order suspending the proposed rate increase until July 18, 2020. Staff anticipated that this matter will be transmitted to the Office of Administrative Law for hearing.

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

III. CABLE TELEVISION

A. Docket No. CE19030396 – In the Matter of the Petition of Comcast of Gloucester County, LLC, for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Deptford, County of Gloucester, State of New Jersey.

BACKGROUND: On March 27, 2019, Comcast of Gloucester County, LLC (Comcast) filed a petition with the Board for an Automatic Renewal Certificate of Approval for the Township of Deptford (Township) based on the automatic renewal provision.

The petition is based on the Township's ordinance granting renewal municipal consent to Comcast, which was adopted September 10, 2007. The Township's ordinance granted a term of 15 years with an automatic renewal term of ten years. The initial term expired on March 31, 2019.

Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire on March 31, 2029.

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

B. Docket No. CE19040467 – 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 City of Northfield, County of Atlantic, State of New Jersey.

BACKGROUND: On April 15, 2019, Comcast of South Jersey, LLC (Comcast) filed a petition with the Board for an Automatic Renewal Certificate of Approval for the City of Northfield (City) based on the automatic renewal provision.

The petition is based on the City's ordinance granting renewal municipal consent to Comcast, which was adopted March 2, 2004. The City's ordinance granted a term of 15 years with an automatic renewal term of ten years. The initial term expired on April 8, 2019.

Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire on April 8, 2029.

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 Nos. BPU WR17090985 and OAL PUC 16279-18 – In the Matter of the Petition of New Jersey American Water Company, Inc., for Approval of Increased Tariff Rates and Charges for Water and Sewer Service, Change in Depreciation Rates and Other Tariff Modifications – OAL Request for Extension.

BACKGROUND: The record in this matter closed on January 21, 2020; therefore, the forty-five day period to issue the initial decision expired on March 6, 2020. Administrative Law Judge Jacob S. Gertsman requested additional time to complete the Initial Decision due to a voluminous caseload.

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 for filing the initial decision be extended until April 20, 2020.

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

VI. RELIABILITY AND SECURITY

There were no items in this category.

VII. CUSTOMER ASSISTANCE

There were no items in this category.

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

Approval of the Minutes for the February 5, 2020 Agenda Meeting.

BACKGROUND: Staff presented the meeting minutes of February 5, 2020, and recommended that 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 Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

AGENDA

1. AUDITS

There were no items in this category.

2. ENERGY

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

A. Docket No. GR19070871 – In the Matter of the Petition of Elizabethtown Gas Company to Revise the Remediation Adjustment Clause Component of its Societal Benefits Charge Rate.

BACKGROUND AND DISCUSSION: On July 31, 2019, Elizabethtown Gas Company (Elizabethtown or Company) filed a petition with the Board seeking review and approval of the Company's Manufactured Gas Plant Remediation Adjustment Clause (RAC) activities and net Manufactured Gas Plant (MGP) costs incurred between July 1, 2018 and June 30, 2019 (RAC Period) (2019 RAC Petition).

The Company's 2019 RAC Petition sought RAC related costs for former MGP sites incurred during the period July 1, 2012 through June 30, 2019, which is based on a seven year cost amortization, in addition to specific adjustments and prior period true-up amounts. The total RAC Period costs totaled \$5,322,183.00, from which \$9,334,111.00 was deducted for third party recoveries, and \$745,845.00 was applied for the deferral of 50% of litigation insurance costs. The proposed net remediation cost of (\$3,266,083.00) would be recovered over the seven-year amortization period.

The Company proposed to increase the Societal Benefits Charge (SBC)-RAC rate from \$0.0020 per therm to \$0.0150 per therm effective October 1, 2019. The rate was designed to recover approximately \$7.0 million in RAC related costs over a twelve month period.

Through the course of discovery, Elizabethtown updated the RAC schedules based on actual information through the RAC Period, and modified its requested SBC-RAC rate to \$0.0149 per therm. In accordance with the Company's tariff, and as a result of the updated information, the updated proposed SBC-RAC rate was determined by calculating the sum of the following: (a) one-seventh (1/7) of the Company's net deferred remediation costs incurred over the twelve months ending June 30th for 2013 through 2019 totaling (\$322,790.00), and is comprised of (\$222,765.00) of amortized costs plus the deferred tax adjustment of (\$100,025.00); (b) \$380,143.00 interest accrued on RAC related costs; and (c) the prior year's RAC under recovery balance of \$6,919,460.00. The sum of these amounts is \$6,976,813.00, which was divided by projected sales and service volumes from October 1, 2019 through September 30, 2020.

After review of discovery, the Company, the New Jersey Division of Rate Counsel and Board Staff (collectively, the Parties) reached an agreement on the 2019 RAC Petition, and on January 31, 2020 executed a stipulation of settlement (Stipulation). The Stipulation would allow Elizabethtown to implement a revised SBC-RAC rate consistent with the updated information.

Staff recommended that the Board approve the Stipulation of the Parties. Staff further recommended that the Board direct Elizabethtown to file revised tariff sheets prior to April 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. GR19070872 – In the Matter of the Petition of Elizabethtown Gas Company to Revise its Energy Efficiency Program Rider Rate.

BACKGROUND AND DISCUSSION: On July 31, 2019, Elizabethtown Gas Company (Elizabethtown or Company) filed a petition with the Board requesting authorization to modify its Energy Efficiency Program (EEP) rate. (July 2019 Petition)

The July 2019 Petition sought to reconcile EEP costs and cost recoveries for the period commencing July 1, 2018 through June 30, 2019 and to recover forecasted revenues for the July 1, 2019 through June 30, 2020 and included 11 months of actual data and one month of estimated data. Elizabethtown sought a revenue requirement of \$3,220,675.00, resulting in an increase in its current EEP per therm rate of \$0.0051 to \$0.0074.

Elizabethtown made several updates to its schedules and associated revenue requirements to reflect actual data through October 31, 2019 and an update to the carrying cost rate for over / under recoveries. As a result of the updates, the Company's updated revenue requirement was reduced to \$3,167,485.00, which produced a proposed EEP per therm rate of \$0.0073.

Elizabethtown, Board Staff, and the New Jersey Division of Rate Counsel (collectively, the Parties) engaged in discovery and discussed the issues in this matter. As a result of those discussions, the Parties executed a stipulation of settlement (Stipulation) that recommended approval of an EEP per therm rate of \$0.0073.

Staff recommended that the Board adopt the Stipulation of the Parties. Staff further recommended that the Board direct Elizabethtown to file revised tariffs conforming to the terms of the Stipulation by April 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

C. Docket No. GR19070873 – In the Matter of the Petition of Elizabethtown Gas Company to (1) Revise its Weather Normalization Clause Rate; (2) Revise the Clean Energy Program Component of its Societal Benefits Charge Rate; and 3) Revise its On-System Margin Sharing Credit.

BACKGROUND AND DISCUSSION: On July 31, 2019, Elizabethtown Gas Company (Elizabethtown or Company) filed a petition with the Board seeking approval to modify its rates relating to the review and true up of Elizabethtown's: 1) Weather Normalization Clause (WNC), 2) the New Jersey Clean Energy Program (CEP) component of its Societal Benefits Charge (SBC); and 3) its On-System Margin Sharing Credit (OSMC). (July 2019 Petition) The July 2019 Petition was based on actual data through May 2019 and an estimate for June 2019.

On October 25, 2019, the Board issued an Order in this docket approving a stipulation executed by Elizabethtown the New Jersey Division of Rate Counsel and Board Staff (collectively, the Parties) (October 25 Provisional Order). The October 25 Provisional Order authorized Elizabethtown to implement the rates proposed in the July 2019 Petition on a provisional basis, subject to refund, effective November 1, 2019. As a result of the stipulation approved in the October 25 Order, the monthly winter bill for a typical customers was expected to decrease by approximately \$0.60 as compared to the Company's rates in effect on November 1, 2019.

On October 15, 2019, the Company updated the filing with actual data through June 30, 2019 (October 15 Update). The October 15 Update supported lower WNC and CEP rates per therm than originally proposed in the July 2019 Petition. There was no impact to the OSMC as a result of the October 15 Update. The Company proposed to maintain the CEP rate approved in the October 25 Provisional Order to reflect, in part, the revised funding levels for the CEP for fiscal year 2020 contained in the Board's August 16, 2019 Notice modifying the funding levels established by its original June 21, 2019 Order.

After a review of the July 2019 Petition and the October 15 update, the Parties executed a stipulation of settlement (Stipulation) which sought to implement the updated WNC rate and maintain the CEP and OSMC rates that were approved in the October 25 Provisional Order.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties. Staff further recommended that the Board direct Elizabethtown to file revised tariff sheets by April 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

D. Docket No. GR19070874 – In the Matter of the Petition of South Jersey Gas Company to Change the Levels of its Societal Benefits Clause and its Transportation Initiation Clause.

BACKGROUND AND DISCUSSION: On July 31, 2019, South Jersey Gas Company (SJG or Company) filed a petition with the Board requesting approval to change the rates pertaining to its Transportation Initiation Clause (TIC), and two elements of the Company's Societal

Benefits Charge (SBC): the Remediation Adjustment Clause (RAC) and the Clean Energy Program (CLEP).

SJG sought approval to increase the revenues recovered through the RAC, CLEP, and TIC by approximately \$3.9 million. The increase in the SBC charge was the result of a \$7.5 million increase in the level of its RAC related expenditures for the remediation year August 1, 2018 to July 31, 2019 and a \$3.3 million decrease to the revenue recovered through its CLEP for the period November 1, 2019 through October 31, 2020. Additionally, SJG sought authorization to decrease its TIC revenues by approximately \$0.3 million.

In response to discovery requests, the Company updated its petitioned recovery amounts and rates based upon actual data through September 30, 2019, and projected information for the period October 2019 through October 2020. Based upon the updates, the total recovery sought was modified to an increase of \$5.2 million.

On February 14, 2020, following review of the Petition and discovery responses, SJG, the New Jersey Division of Rate Counsel and Board Staff (collectively, the Parties) executed a stipulation of settlement (Stipulation) to increase the revenues recovered through the RAC, CLEP, and TIC by approximately \$3.9 million as requested in the Company's petition.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties. In addition, Staff recommended that the Board direct SJG to file tariff sheets consistent with the terms and conditions of the Order by April 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

E. Docket No. ER20010003 – In the Matter of the Federal Energy (FERC) Items for 2020 – FERC Docket No. ER19-2915 PJM Interconnection, LLC submits tariff filing: Revisions to Operating Agreement, Schedule 6, sec 1.5 re: Cost Commitment.

Cynthia L. M. Holland, Esq., Director, Office of Federal and Regional Policy, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved Staff, on behalf of the Board, filing Comments following PJM's response to the Federal Energy Regulatory Commission (FERC) December 23, 2019 Deficiency Letter. Staff filed these comments on February 12, 2020. Several interested parties, both in protest and in support, have commented on the matter. The FERC deemed the PJM filing deficient and therefore unable to process. In response, PJM made clarifications to the original September 30 filing. Staff has filed comments in support of the January 22 PJM response.

Staff recommended that the Board ratify the comments at this time.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

There were no items in this category.

5. WATER

A. Docket No. WX19050614 – In the Matter of the Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge.

Michael Kammer, Director, Division of Water, presented this matter.

BACKGROUND AND DISCUSSION: The Distribution System Improvement Charge (DSIC) is a regulatory mechanism which creates a financial incentive for water utilities to accelerate the level of investment necessary to promote the timely rehabilitation or replacement of certain non-revenue producing critical water infrastructure. DSIC projects enhance safety, reliability and/or conservation and speed the rate of renewal of aging infrastructure. Staff sought to obtain stakeholder input on the extension of the existing DSIC rule to investor owned wastewater utilities.

Staff held four stakeholder meetings at the Board's Trenton office, which were open to all interested parties on June 13, 2019, July 23, 2019, September 13, 2019 and December 9, 2019. Participants included: New Jersey Division of Rate Counsel (Rate Counsel), Association of Environmental Authorities (AEA), New Jersey American Water Company (NJAW)/ Environmental Disposal Corporation (EDC), Aqua New Jersey, Inc. (Aqua), Atlantic City Sewerage Company (AC Sewer), New Jersey Utilities Association (NJUA), Mount Laurel Township Municipal Utilities Authority, and New Jersey Laborers' Employers Cooperation and Education Trust.

Written comments were received from Rate Counsel and AEA in opposition to the proposed Wastewater System Improvement Charge (WSIC rule); while NJAW/EDC, Aqua, AC Sewer, NJUA, National Utility Contractors Association of New Jersey, and Utility and Transportation Contractors Association of New Jersey all filed comments in support of the proposed WSIC rule.

Staff proposed that Wastewater System Improvement Charge (WSIC) rule will accelerate the level of investment needed to promote the timely rehabilitation and/or replacement of certain non-revenue producing critical wastewater infrastructure in a systematic, responsible and cost-effective manner.

Staff recommended that the Board approve the proposed WSIC rule for filing with the Office of Administrative Law and publication in the New Jersey Register.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

6. RELIABILITY AND SECURITY

There were no items in this category.

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QO20010053 – In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$500,000.00 – Mack-Cali Realty, LP/101 Hudson Realty.

Benjamin Goldstein, Program Specialist, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: Mack-Cali Realty LP/101 Hudson Realty (Company) submitted an application under the Fiscal Year 2018 Large Energy Users Program pursuant to the New Jersey Clean Energy Program, Energy Efficiency and Renewable Energy Program Plan Filing for Fiscal Year 2018. The Company requested Board approval of a financial incentive of \$937,199.21 for installation of energy conservation measures at nine different locations across New Jersey. The proposed project has a total cost of \$1,717,526.63.

The proposed upgrades are grouped into four main categories: Five heating, ventilation, and air conditioning (HVAC) fan system retrofits with improved Building Automation System (BAS) functionality and variable frequency drives (VFDs); one HVAC fan system retrofit with VFDs but no improved BAS; two curtain wall insulation applications; and one LED lighting retrofit. A description of the project at each location is as follows:

- Plaza II-III Harborside, Jersey City: The applicant will replace the existing pressure bypass system with a variable speed condenser water pumping system; retrofit cooling tower fans and condenser water pumps with VFDs; and update plant optimization algorithms to produce condenser water as efficiently as possible under all outside ambient and building load conditions.
- 333 Thornall Street, Edison: The applicant will retrofit existing chilled water pumps and condenser water pumps in the central chilled water plant with VFDs; and add functionality to the BAS to control VFDs and to the chillers to maximize the temperature differential between condenser water, chilled water, and supply air

and thereby produce chilled water more efficiently at all outside ambient and internal load conditions.

- 111 River Street, Hoboken: The applicant will retrofit primary cooling water pumps in the existing water loop heat pump plant with VFDs; upgrade the existing BAS to accommodate the VFDs; and imbed a control algorithm that will optimize system functionality for all ambient conditions at any building load.
- 581 Main Street, Woodbridge: The applicant will add VFDs to chilled water pumps, cooling tower fans, and condenser water pumps; convert condenser water flow control to VFD flow control to adjust flow based on load; and upgrade existing controls to maximize the temperature differential between condenser water, chilled water, and supply air, which will yield additional energy savings.
- 5 Wood Hollow Road, Parsippany: The applicant will retrofit existing cooling tower fans and condenser water pumps with VFDs; and upgrade the BAS temperature differential for condenser water and air handling unit optimization for all outside ambient and internal load conditions, which will yield additional energy savings.
- 101 JFK Parkway, Short Hills: The applicant will replace existing cooling plant fan starters with variable speed drives to allow fan speed to be reduced to meet outside ambient and internal load conditions.
- Plaza IV-A Harborside, Jersey City: The applicant will apply closed cell foam insulation to the inside surface of the parking deck's perimeter curtain wall to reduce the required electric heating load; and provide sealing for elevator shaft walls to reduce infiltration.
- Plaza V Harborside, Jersey City: The applicant will apply closed cell foam insulation will be applied to the inside surface of the parking deck's perimeter curtain wall to reduce the required electric heating load.
- 101 Hudson Street, Jersey City: The applicant will replace all of the existing lighting at this location's parking deck with LED fixtures and proximity sensors to minimize lighting usage during unoccupied periods.

Annually, this project is anticipated to conserve 3,401,924 kWh of electricity and reduce peak demand by 290.41 kW. The proposed project has an estimated annual energy cost savings of \$358,112.06, plus an additional \$1,800.00 in operational and maintenance savings. The payback period without incentives is 4.75 years; when factoring in the incentives, the payback period is reduced to 2.16 years.

Based on the certifications and the information provided by the Program Manager and Program Administrator, Staff recommended approval of the application for the total estimated incentive amount of \$937,199.21 and issuance of a standard commitment letter to the applicant, setting forth the terms and conditions of this commitment.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. QO19121526 – In the Matter of the Verified Petition of Astrum Solar, Inc. d/b/a Direct Energy Solar for Waiver of SREC Registration Rules at N.J.A.C. 14:8-2.4 to Extend Construction Deadline for Solar Installation at the Children’s Hospital of Pennsylvania.

Ronald Jackson, Research Scientist, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: On December 13, 2019, Astrum Solar Inc. d/b/a Direct Energy Solar (Direct Solar or Petitioner), on behalf of the Children’s Hospital of Philadelphia, Plainsboro, NJ (CHOP), petitioned the Board for a one (1) year extension, to December 29, 2020, of the project completion deadline for its Solar Renewable Energy Credit (SREC) Registration Program (SRP) application. The 427.02 kilowatt dc (kW) carport mounted system (Project) will be net-metered.

Since this is a second extension request, granting it will require a waiver of the Board’s rules, which limit applicants to a single six-month extension of their initial conditional registration.

The Petitioner has spent extensive time and effort working with CHOP to develop this Project but it is severely behind schedule due to the Hospital expansion plans. However, the successful completion of this project would advance renewable energy development in accordance with State policy. The requested extension length of one year if granted would be unprecedented and conflicting with the requirement to close the SREC Program to new entrants at the 5.1% milestone.

Direct Energy has put in substantial time and effort on developing the project, but it is severely behind schedule. Project completion will further the State’s goal of developing renewable sources of electricity and new, cleaner generation technology. However, a one-year extension would definitely extend the project completion beyond the 5.1% Milestone attainment date. Staff recommended granting the Petitioner an extension for six months to June 29, 2020 or the date upon which the Board determines that the 5.1% milestone has been met. If Direct Energy is unable to achieve commercial operation of this project by the earlier of the extended dates, the Project will no longer be eligible for the SRP and will instead be eligible for the applicable solar program open at that time.

Staff also recommended that the Board waive the requirement to re-apply to the SRP. Due to the imminent attainment of the 5.1% Milestone, Staff recommended that the Board deny the Petitioner’s request for a 12-month extension and instead grant a six month extension of the current registration to June 29, 2020. The Project should retain SREC eligibility provided that it achieves commercial operation prior to the Board’s determination that the 5.1% Milestone has occurred or June 29 whichever occurs first. Should the Board determine that the 5.1% milestone has been attained prior to the Project having commenced commercial operations, and regardless of whether the extension has expired, then the Project may be eligible instead for the Transition Incentive program or successor program.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

C. Docket No. QX20010047 – In the Matter of the Verified Petition of Dakota Power Partners, LLC for a Rulemaking Proceeding to Establish Utility-Scale Solar Resources to Qualify for Class I Renewable Energy Credits.

B. Scott Hunter, Renewable Energy Program Administrator, Office of Clean Energy, Division of Economic Development & Energy Policy, presented this matter.

BACKGROUND AND DISCUSSION: On January 14, 2020, Dakota Power Partners, LLC filed a petition with the Board for rulemaking to enable any solar energy generated within or delivered into PJM Interconnect LLC to qualify for Class I renewable energy certificates (RECs). The rules sought enable solar energy not connected to the distribution system, whether located out of state or directly connected to the grid, to serve as the basis for creating Class I RECs.

By letter dated February 7, 2020, the Mid-Atlantic Renewable Energy Coalition, the Solar Energy Industries Association, and seventeen renewable energy companies submitted a letter of support for the rulemaking petition.

The Board filed a notice of receipt of the petition for rulemaking with the Office of Administrative Law within 15 days as required by Office of Administrative Law and Board rules.

Since there will not have been sufficient time for the Board to reach a decision by that date, Staff recommended that the Board refer the matter for further deliberation and, as required by the rules, render a decision within ninety days.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

D. Docket No. QO19050645 – In the Matter of the Clean Energy Programs and Budgets for Fiscal Year 2020 – Comfort Partners Budget Revision.

Sherri Jones, Assistant Director, Division of Economic Development and Emerging Issues, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved proposing a budget modification to the Comfort Partners program specific budget. The changes modify the individual utility budgets but do not alter the overall \$45.5 million program budget for FY20.

These changes have been proposed in order to react to current participation trends, to allow the QA/QC vendor to provide additional services, to support additional marketing efforts and to account for the delay of the evaluation study which is still in the planning stages.

The Board established FY20 programs and budgets through a Board Order dated June 21, 2019. In early 2020, the requested modification was agreed upon by the utilities who make up the Comfort Partners Working Group and presented to Board Staff. Following internal review, Staff issued a request for public comments. On February 27, 2020, Staff released a

proposal for the revised Comfort Partners FY20 budget. Staff accepted public comments through March 5, 2020.

Staff coordinated with the Comfort Partners Utility Working Group regarding the proposed budget revisions. The revised FY20 Comfort Partners Compliance Filing includes revisions to the detailed program budget but no changes to the overall program budget. Therefore, Staff recommended that the Board approve the process utilized and the budget revisions.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Scott Hunter, Renewable Energy Program Administrator, Office of Clean Energy, Division of Economic Development & Energy Policy, presented these matters.

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

Docket No. EO12090862V – In the Matter of the Implementation of P.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 QO18090999 – In the Matter of KDC Solar Kingsland, LLC Subsection (t) Application.

BACKGROUND AND DISCUSSION: On September 13, 2018, KDC Solar Kingsland, LLC (KDC) submitted its 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. KDC's 8.66 MWdc project is proposed to be constructed on property formerly owned by New Jersey Sports and Exposition Authority and located at Block 236, Lots 1.01; Block 193, Lot 4 on Valley Brook Ave in Lyndhurst/ North Arlington, Bergen 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.

Staff recommended that the Board conditionally certify the applicant's project as a properly closed sanitary landfill pursuant to Subsection (t) and recommended that the Board's conditions for full certification include compliance with all state and federal law, the NJDEP's requirements for constructing on the landfill. Staff also recommended the Board require that the project achieve commercial operations prior to the expiration of their SREC registration life period by rule which is two years from the date of the SRP acceptance letter.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

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

Docket No. EO12090862V – In the Matter of the Implementation of P.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. QO18091000 – In the Matter of KDC Solar Avon, LLC Subsection (t) Application.

BACKGROUND AND DISCUSSION: On September 13, 2018, KDC Solar Avon, LLC submitted its 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. KDC Solar Avon, LLC’s 11.27 MWdc project is proposed to be constructed on the property, which is owned by New Jersey Sports and Exposition Authority and located at Block 231, Lots 14, 15, p/o 16; Block 233, Lot 14; Block 235, Lot 30, p/o 29 at 1000 Valley Brook Avenue in Lyndhurst Township, Bergen 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.

Staff recommended that the Board conditionally certify the applicant’s project as being on a properly closed sanitary landfill, with the conditions for full certification being compliance with all state and federal law, the NJDEP’s requirements for constructing on the landfill. Staff also recommended the Board require that the project achieve commercial operations prior to the expiration of their SREC registration period which is two years from the date of the acceptance letter.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

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

Docket No. EO12090862V – In the Matter of the Implementation of P.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. QO18091001 – In the Matter of KDC Solar Rutherford, LLC Subsection (t) Application.

BACKGROUND AND DISCUSSION: On September 13, 2018, KDC Solar Rutherford East, LLC submitted its 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. KDC Solar Rutherford East, LLC's 5.81 MWdc project is proposed to be constructed on the Rutherford Landfill, which is owned by the New Jersey Sports and Exposition Authority and located at Block 220, Lots 14 and 15.03 on Haul Road in Rutherford Township, Bergen 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.

Staff recommended the conditions for full certification include compliance with all state and federal laws, the NJDEP's requirements for constructing on the landfill. Staff also recommended the Board require that the project to commence commercial operations prior to the expiration of their SREC registration period which by law or rule is two years from the date of the SRP acceptance letter.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

H. Docket No. QO19010068 – In the Matter of a New Jersey Solar Transition Pursuant to P.L. 2018, c.17 – TREC Base Compensation Schedule.

Ariane Benrey, Program Administrator, Office of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: On December 6, 2019, the Board issued the Transition Incentive Order (TI Order) that approved a new program designed to provide a bridge between the Legacy Solar Renewable Energy Credit Program and a still to-be-determined Successor Program. The Board created factorized Transition Renewable Energy Certificates (TREC). Out of concern for maintaining compliance with the statutory cost caps, the TREC Base Compensation was set lower, at \$65/MWh, during the first three

energy years (EYs) of its existence (EY21, EY22, and EY23), when the risk of breaching the cost cap are the highest (these years referred to as the kink period).

After EY23, the Base Compensation was set to increase to \$189/MWh for the remainder of each project's 15-year TI Qualification Life. When averaged, the total TREC Base Incentive value over the lifetime of the incentive is roughly equivalent to \$152/MWh.

In the TI Order, the Board directed Staff to initiate a proceeding on the cost cap. One of the outcomes of the proceeding was to be a better understanding of whether there was sufficient headroom under the cost cap to flatten the TREC Base Compensation, should the Board decide to do so.

Staff conducted the cost cap proceeding in January 2020; comments, on the issue of whether the Board should "bank" cost cap headroom, and carry it over to future years were received by January 16, 2020.

Additionally, on January 21, 2020, Governor Murphy signed L.2019, c. 448 (the Cost Cap Act), which provides that the Board increase the cost cap for EY22 through EY24 to a rate greater than the 7% cap, if the cost to customers for EY19 through EY21 is less than the 9% cap, and provided that the total cost to customers for EY19 through EY24 does not exceed the sum of the 9% cap for EY19 through EY21 and the 7% cap for EY22 through EY24.

Staff recommended that the Board flatten the Base Compensation of the TREC to \$152/MWh for each year of an eligible project's 15-year Transition Incentive Qualification Life.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

I. Docket No. QO20010035 – In the Matter of Approving Applications and Authorizing the Disbursement of Funds for the Clean Fleet Electric Vehicle Incentive Program.

Ashley-Lynn Chrzaszcz, Clean Energy Specialist, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved Board Order considering Staff recommendation to approve the following applications submitted to the Clean Fleet Electric Vehicle Incentive Program (the Program).

- Bernards Township for \$9,500.00;
- Borough of Runnemede for \$5,500.00;
- Cedar Grove Township for \$5,500.00;
- Township of Millburn for \$5,500.00;
- Borough of Morris Plains for \$1,500.00; and
- Franklin Township for \$1,500.00.

Staff sought Board approval for the above applications, and authorization for Staff to disburse the grants associated with these applicants in accordance with BPU procedures.

Additionally, Staff sought Board approval to amend the Program to include State Government entities, consistent with N.J.S.A. 48:3-51 and N.J.A.C. 14:8-1.2, as eligible entities to apply to the incentive program. Staff is also requesting the ability to approve and disburse funds for the Clean Fleet Electric Vehicle Incentive Program through June 30, 2020.

Staff found that the applications submitted to the Program are eligible to receive funding and recommended Board approval of these applications to the Program, and direct Staff to disburse funding from the Program budget in accordance with BPU procedures.

Staff recommended the Board authorize staff to approve and disburse funds for the Program through June 30, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

9. MISCELLANEOUS

There were no items in this category.

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



AIDA CAMACHO-WELCH
SECRETARY OF THE BOARD

Date: April 6, 2020