



**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 June 10, 2020, via teleconference 1 312 626 6799 - Webinar ID: 913 6863 4775 or Watch Online @ <https://youtu.be/Xlm8jJ1uXbk>

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 June 26, 2020 at 10:00 a.m. via teleconference.

**CONSENT AGENDA**

**I. AUDITS**

**A. Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations**

EE20040280L	Progressive Energy Consultants, LLC	R – EA
EE20040281L	Power Brokers, LLC	R – EA
EE20030242L	Daniel J Reith, LLC	R – EA
EE20010077L	US Energy Consulting Group, LLC	R – EA
EE20010057L	Amerex Brokers, LLC d/b/a Amerex Energy Services	R – EA
EE20020177L	Meretz Energy Group, LLC	R – EA
EE20030226L	PRX Energy, LLC	R – EA
EE20050348L	Gulf Stream Energy Consultants, LLC	R – EA
EE20040294L	Interactive Energy Group, LLC	R – EA
EE20040300L GE20040301L	Patriot Energy Group, Inc.	R – EA/PA
EE20040297L GE20040298L	Usource, LLC	R – EA/PA
EE20020139L GE20020140L	Taurus Advisory Group, LLC	R – EA/PA/EC
EE20010050L	Enel X North America, Inc.	R – EA/PA/EC
EE20030277L GE20030278L	Biofuels Technology, LLC d/b/a Energy Connection	R – EA/EC

**BACKGROUND:** The Board must register all energy agents, private aggregators, and consultants, and the Board must license all third party electric power suppliers and natural gas suppliers. On May 10, 2019, P.L. 2019, c. 100-101 was signed into law providing that third party electric power and natural gas supplier licenses issued by the Board may be renewed without expiring if certain conditions are met. An electric power supplier and/or natural gas supplier license shall not expire so long as the licensee pays to the Board a license renewal fee accompanied by an annual information update on a form prescribed by the Board. The renewal fee and annual information update form must be submitted within 30 days prior to the anniversary date of the last approved licensing application. P.L. 2019, c. 100-101 became operative 60 days following the date of enactment. As such,

any third party suppliers with a license expiring prior to July 9, 2019 were still required to submit the previous renewal application form. Any third party supplier renewal application that was filed prior to July 9, 2019 has been, and will continue to, be processed by Board Staff for approval or denial in accordance with N.J.A.C. 14:4-5.7. The anniversary date for companies with a pending application will be the date that the renewal application receives Board approval. 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 and natural gas suppliers, as well as energy agents, private aggregators, and energy consultants, are required to renew timely their licenses and registrations in order to continue to do business in New Jersey.

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

- Progressive Energy Consultants, LLC
- Power Brokers, LLC
- Daniel J Reith, LLC
- US Energy Consulting Group, LLC
- Amerex Brokers, LLC d/b/a Amerex Energy Services
- Meretz Energy Group, LLC
- PRX Energy, LLC
- Gulf Stream Energy Consultants, LLC
- Interactive Energy Group, LLC
- Patriot Energy Group, Inc.
- Usource, LLC
- Taurus Advisory Group, LLC
- Enel X North America, Inc.
- Biofuels Technology, LLC d/b/a Energy Connection

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

**B. Docket No. TE20040323 – In the Matter of the Verified Petition of DRW NX Deployment LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services in the State of New Jersey.**

**BACKGROUND:** By letter dated April 29, 2020, DRW NX Deployment, LLC (DRW or Petitioner) filed a petition with the Board requesting authority to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

DRW is a privately held Limited Liability Company, LLC organized under the laws of the State of Delaware. DRW was initially formed as Vigilant Deployment, LLC (Vigilant) in the State of Delaware on June 10, 2014. Vigilant filed a Certificate of Amendment to its Certificate of Formation changing its legal name to DRW which became effective February 11, 2019.

DRW 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 stated, 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 May 13, 2020, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments to the Board stating that, based on its review, the Rate Counsel was satisfied that the verified petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. The Rate Counsel did not object to granting the waiver requests in connection with record-keeping by the Petitioner, nor does the Rate Counsel oppose the Petitioner's request to treat its financial statement and competitive exchange carrier questionnaire as confidential and placed under seal.

After review, Staff recommended that the Board grant the Petitioner authority to provide local exchange and interexchange telecommunications services throughout the State of New Jersey. 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.

In addition, Staff recommended that DRW provide notice to the Board of its website link or file tariffs which contain information regarding the rates and general terms and conditions of its services within five days from the effective date of the Board Order. To ensure service quality, Staff recommended that the Petitioner notify the Board within 10 days from the date it begins service to New Jersey customers. Staff further recommended that the Board order DRW to provide the Board notice of its website link or file initial tariffs which contains the rates and general terms and conditions prior to commencing these services to end-users and notify the Board within 10 days from the date it begins providing such services to New Jersey customers.

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

**C. Docket No. EE19040468L – In the Matter of Energy Management Advisors LLC – Withdrawn Application for Initial Energy Agent.**

**BACKGROUND:** Energy Management Advisors LLC's (Company) initial registration, Registration No. EA-0425, was due for a renewed term from August 23, 2017 through August 22, 2018. Energy Management Advisors LLC did not renew its registration with the Board before it expired on August 22, 2018. The Company continued to arrange energy procurement to customers in New Jersey after the expiration. Staff notified Energy Management Advisors LLC of its expired energy registration and advised the company to cease all operations and submit an initial energy agent registration application. On April 15, 2019, an initial application from Energy Management Advisors LLC was received by the Board.

Staff conducted an investigation regarding Energy Management Advisors LLC's compliance with the Act and the Regulations. Staff alleged that the Company failed to comply with the registration and renewal requirements under the Act and the Regulations.

As a result, Energy Management Advisors, LLC was assessed penalties and fees in the amount of \$1,580.00, regarding its alleged violations.

On March 23, 2020, Energy Management Advisors LLC determined that it was not financially feasible to continue business in the State of New Jersey, requested to withdraw its initial registration application and has permanently ceased all operations.

On May 1, 2020, the Company provided official documents to staff of New Jersey Department of the Treasury, Division of Revenue and Enterprise Services Certificate of Dissolution and Termination.

After review, Staff found the request to waive the penalty reasonable given that Energy Management Advisors, LLC withdrew its application to do business in the State of New Jersey. Therefore, Staff recommended waiving all penalties and fees in the amount of \$1,580.00 and resolving the alleged violations.

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

## II. ENERGY

### A. Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket No. ER20-1764 PJM Interconnection LLC re: Proposed Revisions to Operating Agreement on Fuel Cost Policies.

**BACKGROUND:** This matter involved Staff, on behalf of the Board, intervening out-of-time at the Federal Energy Regulatory Commission (FERC) on May 28, 2020. This case involved Fuel Cost Policy rules in the PJM Operating Agreement. PJM submitted a filing to the FERC on May 4, 2020, seeking to amend the Operating Agreement by reducing administrative burdens on Market Sellers associated with developing and maintaining Fuel Cost Policies. The filing also proposed easing, in instances, the penalties for cost-based offers that do not adhere to an approved Fuel Cost Policy. Fuel Cost Policies can protect against the potential exercise of market power. The Board previously actively engaged in matters concerning Fuel Cost Policy at FERC. Intervention establishes party status in a proceeding. Staff recommended the ratification of the intervention. Staff will return to the Board if substantive comments are to be filed.

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

## III. CABLE TELEVISION

### A. Docket No. CE19020215 – In the Matter of the Petition of Comcast of Southeast Pennsylvania, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Hopewell, County of Mercer, State of New Jersey.

**BACKGROUND:** On January 31, 2017, Comcast of Southeast Pennsylvania, LLC (Comcast) filed an application with the Township of Hopewell (Township) for renewal of municipal consent to Comcast. On September 24, 2018, the Township adopted an ordinance granting renewal municipal consent to Comcast, and on October 11, 2018,

Comcast formally accepted the terms and conditions of the ordinance. On February 14, 2019, Comcast filed with the Board for a renewal of its Certificate of Approval for the Township. Staff recommended approval of the proposed Renewal Certificate of Approval with the Township. This Certificate shall expire on October 30, 2027.

**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 WR20010056 and OAL PUC 01318-2020S – In the Matter of the Petition of Aqua New Jersey, Inc. for Approval of an Increase in Rates for Wastewater Service and Other Tariff Changes.**

**BACKGROUND:** On January 21, 2020, Aqua New Jersey, Inc. (Company or Petitioner) filed a petition with the Board requesting authority to increase its base tariff rates and charges for wastewater service amounting to approximately \$1,089,968 million or 22.2% in additional annual revenues. The Company provides wastewater service to approximately 6,281 customers in eight municipalities throughout the state.

The increase in rates was proposed to become effective on January 15, 2020. By Order dated February 19, 2020, the Board suspended the proposed rate increase until June 21, 2020. Thereafter, the matter was transmitted to the Office of Administrative Law (OAL) and was assigned to Administrative Law Judge Gertsman.

Since the proposed revisions will increase existing rates and change or alter existing classifications in the Petitioner's tariff and the matter is still pending at the OAL, Staff recommended that the Board issue an Order:

1. That the proposed revisions be further suspended until October 21, 2020, unless prior to that date, the Board makes a determination disposing of the petition;
2. The Petitioner shall, at least 10 days prior to the date set for hearing on the petition by the Office of Administrative Law, file with the Board and with the Office of Administrative Law, proof of compliance with the notice provisions of N.J.S.A. 48:2-32.2 and N.J.A.C. 14:1-5.12(b) and (c), which notice shall include a statement that any relief found by the Board to be just and reasonable may be allocated by the Board to any class or classes of customers on any rate or schedule as the Board may determine; and
3. The Petitioner shall serve copies of this Order upon the Office of Administrative Law, the New Jersey Division of Rate Counsel, the clerk of the affected municipalities, the clerk of the Board of Chosen Freeholders of the affected county and, where appropriate, the executive officer of the affected county within its service area. Service of this petition, notice of hearings and this Order may be

made simultaneously. Proof of service of this Order shall be filed with the Board within 15 days of the date of this Order.

**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**

**A. Approval of Minutes for the May 5, 2020 Agenda Meeting.**

**BACKGROUND:** Staff presented the meeting minutes of May 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.**

<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>

## AGENDA

### 1. AUDITS

Alice A. Bator, Director, Division of Audits, presented these matters.

- A. Docket No. EO20050353 – In the Matter of the Alleged Failure of Energy Auction Exchange, LLC to Comply with Certain Provisions of N.J.S.A. 48:3-78 et seq., and the New Jersey Administrative Code, N.J.A.C. 14:4-1.1 et seq.

#### Energy Agent and Private Aggregator Initial Registrations

EE19111472L Energy Auction Exchange, LLC E/PA  
GE19111473L

**BACKGROUND AND DISCUSSION:** This matter involved potential violations under the Electric Discount and Energy Competition Act (the Act), and N.J.A.C. 14:4-1.1 et seq. (the Regulations) by Energy Auction Exchange, LLC (EAX or Company), that had been operating as an energy agent and private aggregator to provide services to commercial and industrial customers in New Jersey.

As a result of correspondence and telephone conversations between Staff and the Company, EAX submitted an Offer of Settlement (Offer) regarding its alleged violations. The Company made a monetary offer in the amount of \$1,771.00 to resolve all issues concerning the violations. Staff recommended that the Board issue an order accepting the Offer as it represents a reasonable settlement of potential violations.

**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>

In addition, Staff recommended that the Board approve the initial registration filed by Energy Auction Exchange, LLC.

**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>



On May 5, 2020, DCA submitted a detailed USF administrative report for FY19, which listed expenditures of \$6,094,175.00, with a remaining balance of \$305,830.00 from a budget authorization of \$6,400,005.00 that was approved by the Board on August 29, 2018. The FY 2019 expenses are broken down as follows:

DCA	\$1,297,738.00
Subgrantees-	
County Welfare Organizations	\$ 221,520.00
Community Based Organizations	<u>\$4,574,917.00</u>
Total	\$6,094,175.00

The budget includes USF administration costs incurred by County Welfare and Community Based Organizations that provide services at the local level.

Staff reviewed the DCA's FY19 USF administrative cost expenditures and found that the costs listed therein appear appropriate and necessary for the administration of the USF program. Therefore, Staff recommended that the Board find that DCA has adequately justified its FY 2019 USF administrative expenditures and authorized the Department of Treasury to reimburse the Department of Community Affairs in the amount of \$6,094,175.00.

**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. GA19091305 – In the Matter of an Audit of the Affiliated Transactions between South Jersey Gas Company and its affiliates and a Comprehensive Management Audit of South Jersey Gas Company Pursuant to N.J.S.A. 48:2-16.4, 48:3-49, 48:3-58 and N.J.A.C. 14:3-12.1 – 14:3-12.4, 14:4-3 et. seq. – Executive Session.**

**BACKGROUND AND DISCUSSION:** This matter was initially discussed in executive session and it involved the commencement of the audit of affiliated transactions of South Jersey Gas Company, its parent, affiliates and subsidiaries, comprehensive management audit, and audit of their Payroll Department. Specifically before you today is the selection of the auditor.

The Board's Division of Audits received bid proposals from Silver Point Consulting, Sage Management Consultants (Sage), Schumaker and Company, The Liberty Consulting Group, and Saleeby Consulting. The sixth firm, NorthStar Consulting Group, and seventh firm, Overland Consulting, advised Staff in writing that they would not bid on this project.

The bids ranged from a low of \$598,080.00 to a high of \$1,134,028.00. The Voting Committee, which was comprised of representatives from Audits, the Board's Division of Energy, and the New Jersey Division of Rate Counsel, has reviewed the bid proposals. Staff recommended Sage at a Not to Exceed Price of \$598,080.00.

Staff also recommended that the Board authorized President Fiordaliso to execute a consulting agreement with Sage consistent with the proposed agreement. In the event that Sage may seek in the future any substantive modifications to the proposed agreement, Staff will come back to the Board for consideration of those modifications.

**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>

## 2. ENERGY

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

### A. Docket No. ER19040428 – In the Matter of the Provision of Basic Generation Service for the Period Beginning June 1, 2020.

**BACKGROUND AND DISCUSSION:** In accordance with the contract between Bates White, LLC (Bates White) and the Board, Bates White submitted a final and redacted report regarding its review and oversight of the New Jersey electric distribution companies' Basic Generation Service (BGS) auction process for the supply period beginning June 1, 2020 (2020 BGS Auction). The Energy Division reviewed the report and found it to be complete.

Staff recommended that Bates White's "Annual Final Report on the 2020 BGS Residential Small Commercial Pricing and Commercial Industrial Price Auctions" be accepted for filing by the Board, and that the redacted version be made available to the public via the Board's website. Staff also recommended that the Board direct the Division of Treasury to provide final payment to Bates White for its work on the 2020 BGS Auction.

**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>

## 3. CABLE TELEVISION

There were no items in this category.

**4. TELECOMMUNICATIONS**

There were no items in this category.

**5. WATER**

There were no items in this category.

**6. RELIABILITY AND SECURITY**

There were no items in this category.

**7. CUSTOMER ASSISTANCE**

**A. Docket No. EC18030267U – In the Matter of Gertrude Holmes, Petitioner v. Public Service Electric and Gas Company, Respondent – Billing Dispute.**

**Julie Ford-Williams, Director, Division of Customer Assistance**, presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved a billing dispute between Gertrude Holmes (Petitioner) and Public Service Electric & Gas Company (PSE&G or Company). The petition was transmitted to the Office of Administrative Law for a hearing as a contested case. Administrative Law Judge (ALJ) Andrew M. Baron filed an Initial Decision in this matter with the Board on March 11, 2020.

At the March 27, 2020, Board meeting, Staff requested and was granted a 45-day extension of time for issuing a final decision. No exceptions to the Initial Decision have been received by the Board.

On November 27, 2018, the parties entered into an oral settlement on the record. In a gesture of good faith, PSE&G agreed that it was possible that some of the Petitioners' claims were valid, and subsequently agreed to reduce the amount owed to \$3,361.83, an almost 60% reduction. The Petitioner agreed to pay \$70.00 per month, in addition to her monthly bills, for a period of forty-eight months until the settlement amount of \$3,361.83 was paid off. On August 20, 2019, after waiting to close out the matter, the Petitioner informed ALJ Baron that she would not sign the settlement.

Staff noted that the parties voluntarily agreed to the Settlement fully resolving all outstanding contested issues in this matter, as evidenced by the November 27, 2018 transcript, as confirmed in the August 20, 2019 transcript, and as augmented by the Modification in the January 30, 2020 transcript. The Petitioner is obligated to pay PSE&G \$3,361.83, less any payments made, in installments of \$70.00 a month (in addition to regular monthly bills) for a period of forty-eight months, with a ten-day grace period, beginning in June 2020.

The Board, at its discretion, has the option of accepting, modifying or rejecting the Initial Decision of ALJ Baron. Staff recommended that the Board adopt the Initial Decision of ALJ Baron, as modified, and that the petition in this matter be dismissed.

**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

**Ariane Benrey, Program Administrator, Office of Clean Energy**, presented these matters.

### **A. Docket No. QO19010068 – In the Matter of a New Jersey Solar Transition Pursuant to P.L. 2018, c.17 – Atlantic County Utilities Authority Motion for Reconsideration.**

**BACKGROUND AND DISCUSSION:** On December 6, 2019, the Board issued the Transition Incentive Order (TI Order) that approved the first of two new solar incentive programs designed to implement the Clean Energy Act of 2018's requirements to transition away from the Legacy solar renewable energy certificates program.

The Transition Incentive Order established a fixed price for Transition Renewable Energy Certificates (TRECs); TRECs were assigned different factors that determine the level of incentive for different categories of projects. Community solar projects were assigned a TREC factor of 0.85.

On December 30, 2019, Atlantic County Utilities Authority (ACUA) filed a motion for reconsideration and clarification of the Board's TI Order. Specifically, ACUA asked the Board to increase the TREC factor of 1.2 for community solar projects that will serve only low and moderate income customers.

In the motion for reconsideration, ACUA failed to provide substantiating data, calculations or analysis and Staff did not believe that ACUA made a compelling arguments for creating a new, higher TREC factor for all LMI community solar projects.

Staff recommended that the Board deny the Motion for Reconsideration, and affirm the existing TREC factor of 0.85 for all community solar projects.

**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. QO19010068 – In the Matter of a New Jersey Solar Transition Pursuant to P.L. 2018, c.17 – New Jersey School Boards Association Motion for Reconsideration.**

**BACKGROUND AND DISCUSSION:** On December 6, 2019, the Board issued the Transition Incentive (TI) Order to provide an incentive that will be in place between the closure of the existing Legacy solar renewal energy certificate program and the implementation of a yet-to-be-designed Successor Solar program. The TI program established a fixed price for Transition Renewable Energy Certificates (TRECs); TRECs were assigned different factors that determine the level of incentive for different categories of project. Net metered non-residential ground mounted projects were assigned a factor of 0.6.

On December 27, 2019, the New Jersey School Boards Association (NJSBA) filed a motion for reconsideration that asked the Board to increase the TREC factor assigned to net metered ground mounted projects from 0.6 to 1.0. From the context of the Motion for Reconsideration, Staff assumed that NJSBA was seeking reconsideration specifically of the net metered non-residential ground mounted projects.

In the motion for reconsideration, NJSBA failed to provide substantiating data, calculations or analysis and Staff did not believe that NJSBA made a compelling arguments for increasing the factor for net metered non-residential ground-mounted projects. In their motion the School Boards Association did not provide any proof of the assertion that school districts will not develop solar projects under the existing TREC factor. Staff also noted that the reconsiderations sought on behalf of school boards would impact all net metered non-residential ground-mounted solar project developments in the Transition Incentive Program.

Therefore, Staff recommended that the Board deny the Motion for Reconsideration.

**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 Nos. QO18060646 and QO19091096 – In the Matter of the Motion for Reconsideration of the Board’s Order in the Matter of the Community Solar Energy Pilot Program – Atlantic County Utilities Authority.**

**BACKGROUND AND DISCUSSION:** The Clean Energy Act of 2018, directed the Board to adopt rules and regulations to institute a Community Solar Energy Pilot Program (Pilot Program). The Pilot Program rules were adopted by the Board on January 17, 2019, and were published in the New Jersey Register on February 19, 2019. The application period for Program Year 1 (PY1) of the Pilot Program ran from April 9, 2019 to September 9, 2019.

On December 20, 2019, the Board granted conditional allocation to 45 PY1 community solar projects, totaling approximately 77.98 MWdc. This included a conditional approval of Atlantic County Utilities Authority’s (ACUA) application for a 2 MWdc community solar project to be located on a landfill in Egg Harbor Township, which will serve exclusively LMI customers. In the same Order, the Board denied ACUA’s application for a waiver of Pilot Program Rules which require that customers can only be subscribed into the program with their affirmative written consent, either via “wet” (i.e., signed in ink) or electronic signature. The requirement for a “wet” signature to ensure that the subscriber has actually assented to the change in provider, is a long standing practice of the Board to cut down on the incidence of slamming.

On January 15, 2020, ACUA filed a motion for reconsideration of the Board’s December 20, 2019 Order, pursuant to N.J.A.C. 14:1-8.6, asking the Board to reconsider the Board’s denial of ACUA’s request for a waiver of N.J.A.C. 14:89.10(b)(1)(i). By letter dated February 19, 2020, following a Board vote, the Board notified the president of ACUA that, pursuant to N.J.A.C. 14:1-8.7(c), the Board was extending the time period for its review of the motion for reconsideration, and that ACUA needed to be represented by counsel in this matter, pursuant to N.J.A.C. 1:1-5.4(a).

Staff noted that this would not necessarily preclude the "opt-out" model from being explored as a possible modification in future years to support low- to moderate-income access to community solar, nor would it preclude current projects from benefiting from any changes made to the pilot program in later years. Therefore, Staff recommended the Board deny the motion for reconsideration.

**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. QO19010040 – In the Matter of the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; and**

**Docket No. QO19060748 – In the Matter of the Clean Energy Act of 2018 – Utility Demographic Analysis; and**

**Docket No. QO17091004 – In the Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1 – Minimum Filing Requirements.**

**Kelly Mooij, Director, Office of Clean Energy**, presented this matter.

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Murphy signed into law the Clean Energy Act of 2018 (CEA or Act). The Act calls for a significant overhaul of New Jersey's energy systems while growing the economy, building sustainable infrastructure, creating well-paying local jobs, reducing carbon emissions, and improving public health to ensure a cleaner environment for current and future residents. The CEA plays a key role in achieving the State's goal of 100% clean energy by 2050 by establishing aggressive energy reduction requirements, among other clean energy strategies. This action by the Governor came at a critical time in our global fight against climate change and set New Jersey on a path to once again be a leader in charting a course towards a greener future.

Energy Efficiency (EE) helps to reduce greenhouse gas emissions and mitigates climate impacts while bolstering the economy. These projects are labor intensive, and increased achievement of EE will greatly strengthen the job market. While energy efficiency already employs 36,000 people in New Jersey, it ranks near the bottom of U.S. States in EE jobs per capita.

The robust goals of the Clean Energy Act and this EE transition are expected to spur substantial growth in energy efficiency jobs. In addition to creating thousands of green jobs, energy efficiency also provides long-term benefits for program participants, such as reducing utility bills and improving health, comfort, and safety. Staff recommended that the energy efficiency framework will chart a course towards achieving some of the highest EE savings in the country.

The CEA emphasizes the importance of EE and peak demand reduction (PDR) and calls upon New Jersey's electric and gas public utilities to play an increased role in delivering EE and PDR programs to customers. The Act requires each utility in the state to reduce the use of electricity and natural gas in its service territory. Specifically, the CEA directs the Board to require that:

- (a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and

(b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas usage in the prior three years within five years of implementation of its gas energy efficiency program.

The Act further requires the Board to adopt quantitative performance indicators to establish utility targets for energy usage reduction. The Act also requires the Board to establish a stakeholder process, and as part of that process, the Act directs the Board to establish an independent advisory group charged with studying the evaluation, measurement, and verification process for the programs.

The Clean Energy Act also calls for the Board to adopt programs that, “ensure universal access to energy efficiency measures, and serve the needs of low-income communities”. This framework for the next generation of programs seeks to reduce the inequity currently experienced by groups and individuals across New Jersey who disproportionately lack access to energy-efficient housing, appliances, and technologies. The lack of access is often reflected in a household’s energy burden.

Research has shown that the average low-income household devotes more than three times more of their income to energy bills than the average higher income household. Families who face higher energy burdens experience many long-term effects, a reality that has certainly been exacerbated by the recent pandemic.

Energy Efficiency must be integrated seamlessly with other government efforts to promote public health, safety, and comfort, including, but not limited to, weatherization, lead removal, and improving household determinants of residents’ health. Holistic programming that coordinates the delivery of multiple services to New Jersey residents with lower barriers to entry can begin to address systemic inequities.

New Jersey’s next generation of EE will play a central role in rising to meet the challenge of the climate crisis while providing significant benefits to residents and businesses throughout the state and growing a clean energy workforce. In order to achieve the robust goals of the Act, Staff recommended a transition in the framework for energy efficiency to continue New Jersey’s path to 100% clean energy by 2050.

Staff has been working on an EE transition as required by the Clean Energy Act over the last year and a half with particular intensity over the last 10 months. Staff has engaged in an extensive process in order to fully engage stakeholders, seek input from experts, research and evaluate best practices and, ultimately, to recommend a framework for delivering best-in-class energy efficiency and peak demand reduction programs.

The Board has also focused on issues of equity in access to programs and measures as well as local workforce development as critical components of addressing long-term market barriers to program adoption.

A full listing of all 15 stakeholder and technical meetings as well as comments received during the stakeholder process can be found on the clean energy website. This extensive public input received throughout the transition process was of great value in understanding stakeholder perspectives and priorities. That input was instrumental in the formulation of three draft proposals, a full straw proposal.

To increase adoption and to limit contractor confusion, Staff recommended that the utilities administer a suite of core programs that serve the existing residential, commercial, and industrial, and multi-family sectors. These core programs must be consistently available throughout the state and include coordinated and common program elements. The utilities will also be required to propose a peak demand program to commence by program year four.

For all utility-programs, Staff recommended the following common elements:

- Customer access to their data, on-bill and/or third-party financing options, and workforce development and job training partnerships and pipelines.
- Allowing flexibility for utilities to propose additional initiatives and program pilots and also in adjustments to utility-led program budgets and incentives, in order to ensure that programs are sufficiently nimble to respond to opportunities and market changes, and capture increased energy savings.
- State administration of new construction in the residential, commercial, and industrial and multi-family sectors. Staff also recommended that the State continue to administer the comprehensive Large Energy Users Program, combined heat and power program, and state and local government programs. Staff also recommended the State and utilities continue to co-manage the low-income Comfort Partners program.
- Establishing energy use reduction targets for program years two, three, four, and five with years four and five preliminary, and for the utilities to report on energy use reduction each program year.
- Commencing year two to allow opportunity for a smooth transition in administration of the programs.
- The Board set year five preliminary targets for energy reduction at 2.15% for electric distribution companies, and 1.10% for gas distribution companies, as supported by the market potential study, but calls for the commissioning of an updated market potential study before the triennial review to further elucidate the potential for energy savings in each utility territory.
- The establishment of seven metrics to ensure achievement of core policy objectives of the state beyond annual savings reductions and recommended that these metrics be evaluated and updated every three years. Staff also recommended that greenhouse gas emission reduction be considered at the triennial review consistent with other state clean energy goals.
- Penalties and incentives not apply until year five, and that the Board be permitted to waive penalties to account for potential unforeseen circumstances which would prohibit the achievement of energy savings targets.
- The Board direct utilities to include annual quantitative performance indicator values for established targets in their program filings.

- Amortization of program investments over a 10-year period and using the capital structure established in the utility's most recent base rate case for program investments, incorporating both the cost of debt and the return on equity, with no basis point reduction on the return on equity (ROE).
- The 10-year amortization period to limit rate shock for rate payers and to ensure that the costs of the programs more accurately track with the life of the measures. Staff also recommended no reduction on the ROE, noting that energy efficiency measures and investments should be set on a level playing field with other utility investments.
- The utilities, Staff and the New Jersey Division of Rate Counsel (Rate Counsel) work to develop a modified conservation incentive program that could be applicable to all of the state's electric distribution companies and gas distribution companies for filing. If there is no agreement on a modified CIP, Staff recommended that the Lost Revenue Adjustment Mechanism, as described, be the lost recovery revenue mechanism.
- Using an ROE adjustment for performance incentives and penalties. For achievement up to 150% over the neutral band of 90% to 110%, an up to 50 basis point incentive shall be granted, scaled in a linear fashion. For achievement below 90% down to 50%, a 200 basis point penalty shall be meted out, scaled in a linear fashion. If the utility fails to reach 50% of the target, Staff recommended that it be deemed non-compliant and assessed a penalty of 0.75% of the base rate distribution revenue in the previous year.
- Using net savings for all aspects of program review, including compliance and cost-effectiveness testing and a net-to-gross value of 1.0 for all programs until a New Jersey-specific net-to-gross value can be established.
- Development of a New Jersey cost test to be used as the primary cost-effectiveness test to evaluate energy efficiency and peak demand programs. Staff recommended utilizing the Total Resource Cost Test modified with symmetrical non-energy impacts, as the interim New Jersey Cost Test in the first three-year program cycle. Staff also recommended the use of the five existing cost-effectiveness tests for information purposes.
- The Board engage a statewide evaluator to facilitate the Evaluation Measurement & Verification working group (EM&V), review EM&V studies, methods assumptions, and perform other activities as defined by Staff and recommended by the working group.
- Revisions to the minimum filing requirements; requirements for quarterly, annual, and triennial progress reports; and direction to Staff to engage a contractor to administer a statewide tracking system for energy efficiency and peak demand reduction programs.
- A triennial review process to review and establish performance metrics and targets, cost recovery mechanisms, program administration and design, and "cost to achieve" budgets.

- Recognizing that the energy efficiency advisory as currently constituted has satisfied its requirements under the Clean Energy Act, Staff recommended expansion of the Energy Efficiency Advisory Group to include:
  - A Workforce Development Working Group;
  - An Equity Working Group, including Comfort Partners and multi-family Subcommittees;
  - An EM&V Working Group, including an Energy Codes and Standards Subcommittee;
  - An EM&V Working Group, including an Energy Codes and Standards subcommittee; and
  - Marketing Working Group.

Finally, Staff focused considerable effort to highlight and seek to address systemic and structural equity issues in program design and delivery.

Staff heard from stakeholders that it was critical to make programs and progress more transparent and eligibility and enrollment easier, ensure consumer protections and access to data, integrate a focus on health and safety to reduce deferrals from programs, ensure jobs were local and reflective of the communities they serve, establish strong program oversight and accountability to goals, and Ramp up funding for low-income programs so it is on par to reach the new goals.

To begin to address these issues, Staff recommended a number of critical program components including the following:

- Materials for all programs in languages in addition to English, including Spanish;
- Low-to moderate-income (LMI) automatic eligibility, including expansion to include alternatives to income criteria, such as census-tract;
- Financing, including on-bill or financing addressed by third parties;
- Customer data access and ownership by the customer;
- Co-managed Comfort Partners program to continue to provide Energy efficiency upgrades at no cost to the participants;
- Utilities required to provide other non-competing low-income and moderate income programs;
- Competitive contracting opportunities to encourage supplier diversity and requiring collaboration to develop a ranking/priority process to encourage diverse contractors;
- Vocational and Community College-based education to develop workforce pipeline;

- Local workforce development focusing on LMI communities; and
- The establishment of the Equity Working Group, which includes the subcommittees mentioned previously.

The recommendations are designed to reduce costs, including administrative costs for energy saved through reliable and consistent program delivery. The recommendations seek to expand job opportunities and economic benefits of energy efficiency, particularly in low- and moderate-income communities.

**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

### A. Non-Docketed Matter – In the Matter of Agera Energy, aka Me Energy v. New Jersey Board of Public Utilities Claim Nos. 32, 247 (Objection Docket Nos. 647, 648, 654) – Executive Session.

This matter was discussed in executive session pursuant to attorney-client privilege and pending litigation exception to the Open Public Meetings Act. The Board will make the contents of its discussion of the above matter public at the earliest appropriate time.

## LATE STARTER A

### MISCELLANEOUS

#### Docket No. EO20030254 – In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations.

Robert Brabston, Deputy Executive Director, presented this matter.

**BACKGROUND AND DISCUSSION:** On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared COVID-19 a “public health emergency of international concern,” which means “an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response.”

On March 9, 2020, Governor Phil Murphy signed Executive Order No. 103 (March 9, 2020), 52 N.J.R. 549(a) (Apr. 6, 2020) (EO 103) in response to the COVID-19 Pandemic, in order to ensure the continuity of government services and protect the public during the State of Emergency. In that order, Gov. Murphy stated:

“I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.”

On May 13, 2020, Governor Phil Murphy signed EO 142, which served to modify Executive Order No. 122 (Apr. 8, 2020), 52 N.J.R. 959(a) (May 4, 2020) (EO 122) in response to the COVID-19 Pandemic. EO 122 prohibited all non-essential construction projects from continuing in the State. In EO 142, the Governor has directed that non-essential construction activities may restart, subject to certain safety and social distancing requirements. Accordingly, EO 142 lifts the restrictions on non-essential construction projects subject to certain conditions found in paragraph 2 of EO 142.

On June 1, 2020, Governor Murphy announced New Jersey will enter Stage Two of the Restart and Recovery of New Jersey. Stage Two includes non-essential retail activities. The Governor’s June 1 announcement of the State’s entrance into Stage Two of the Restart and Recovery program is an initial measure in the effort to restore the economy. As of June 15 measures will be implemented along with strict protocols that enable previously restricted activities. Further, on June 9, 2020, the Governor likewise issued EO151, which noted that the public health emergency remains in effect.

Staff recommended that the Board modify the March 19, 2020 order and end the restriction on door-to-door sales set forth therein, but continues to require that sales activities comply with appropriate health and safety measures, including providing employees with appropriate Personal Protective Equipment, and other steps recommended by the New Jersey Department of Health and Centers for Disease Control and Prevention.

**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>

## EXECUTIVE SESSION

After appropriate motion, the following matters, which involved pending litigation attorney/client privilege and contract negotiation pursuant to the Open Public Meetings Act at N.J.S.A. 10:4-12(b)7 were discussed in Executive Session.

### 1. AUDITS

- D. Docket No. GA19091305 – In the Matter of an Audit of the Affiliated Transactions between South Jersey Gas Company and its affiliates and a Comprehensive Management Audit of South Jersey Gas Company Pursuant to N.J.S.A. 48:2-16.4, 48:3-49, 48:3-58 and N.J.A.C. 14:3-12.1 – 14:3-12.4, 14:4-3 et. seq.**

The substance of this discussion shall remain confidential except to the extent that making the discussion public is not inconsistent with law.

### 9. MISCELLANEOUS

- A. Non-Docketed Matter – In the Matter of Agera Energy, aka Me Energy v. New Jersey Board of Public Utilities Claim Nos. 32, 247 (Objection Docket Nos. 647, 648, 654).**

The substance of this discussion shall remain confidential except to the extent that making the discussion public is not inconsistent with law.

After appropriate motion, the Board reconvened to Open Session.

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



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AIDA CAMACHO-WELCH  
SECRETARY OF THE BOARD

Date: July 15, 2020