



Agenda Date: 05/21/14  
Agenda Item: 2F

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

|  |   |                       |
|--|---|-----------------------|
| IN THE MATTER OF THE BOARD'S ESTABLISHMENT   | ) | DECISION AND ORDER    |
| OF A GENERIC PROCEEDING TO REVIEW THE        | ) | APPROVING STIPULATION |
| PRUDENCY OF COSTS INCURRED BY NEW JERSEY     | ) |                       |
| UTILITY COMPANIES IN RESPONSE TO MAJOR STORM | ) |                       |
| EVENTS IN 2011 AND 2012                      | ) | DOCKET NO. AX13030196 |
|  | ) |                       |
| IN THE MATTER OF THE BOARD'S REVIEW OF THE   | ) |                       |
| PRUDENCY OF THE COSTS INCURRED BY ROCKLAND   | ) |                       |
| ELECTRIC COMPANY IN RESPONSE TO MAJOR        | ) |                       |
| STORM EVENTS IN 2011 AND 2012                | ) | DOCKET NO. EO13070611 |

**Parties of Record:**

**James C. Meyer, Esq.**, Rockland Electric Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

On March 20, 2013, the Board issued an Order establishing a generic proceeding to review the prudence of costs incurred by New Jersey utilities in response to multiple Major Storm Events<sup>1</sup> in 2011 and 2012<sup>2</sup> ("March 20 Order"). Among other things, the March 20 Order required any utility seeking reimbursement for these costs from its ratepayers to file a detailed expense report by July 1, 2013, for evaluation and prudence review under its own separate sub-docket within the generic proceeding. March 20 Order at 3.

On July 1, 2013, Rockland Electric Company ("Company" or "RECO") filed a report detailing its unreimbursed major storm costs. Thereafter, on October 1, 2013, RECO filed a formal petition, requesting the recovery of its incremental, unreimbursed and uninsured preparation, recovery

<sup>1</sup> Major Storm Event is defined as sustained impact on or interruption of utility service resulting from conditions beyond the control of the utility that affect at least 10 percent of the customers in an operating area. March 20 Order at 2.

<sup>2</sup> In re the Board's Establishing a Generic Proceeding to Review the Prudence of Costs Incurred by NJ Utility Companies in Response to Major Storm Events in 2011 and 2012, Docket No. AX13030196, March 20, 2013 ("March 20 Order")

and restoration costs ("Major Storm Costs") associated with the 2011 and 2012 Major Storm Events. The requested storm-related costs totaled approximately \$31 million, consisting of \$25.37 million in deferred incremental operational and maintenance ("O & M") costs and \$5.6 million in capital costs. The Company further requested that it be authorized to recover the storm costs over a period of time to be determined in its next base rate case and requested that the Board expeditiously review the matter so that it may be completed prior to the December 1, 2013 deadline for the filing the Company's base rate case ("Base Rate Case").

By Order dated November 22, 2013, this matter was retained for a hearing at the Board, and Commissioner Mary-Anna Holden was designated as the presiding Commissioner with authority to rule on all matters that arise during the proceeding. On January 9, 2014, Commissioner Holden issued an initial Order Setting Bar Date for the filing of motions to intervene, Manner of Service and Preliminary Schedule. Commissioner Holden issued a prehearing order along with a procedural schedule for this matter on February 7, 2014. On March 28, 2014, the Company updated the Major Storm costs to be review in this proceeding, revising the O&M costs to \$25.645 million, and the total costs to \$31.246 million. Throughout the course of this matter, the Company, the Division of Rate Counsel ("Rate Counsel") and Board staff (collectively, "Parties") have engaged in discovery.

Public hearings were conducted in this matter by Administrative Law Judge Irene Jones in conjunction with the public hearings for the Company's pending Base Rate Case<sup>3</sup>, after proper notice, in Mahwah, New Jersey on April 30, 2014 at 3:30 p.m. and 6:30 p.m. A few members of the public attended the public hearings.

## **STIPULATION**

Following the review of discovery and testimony, the Parties met to discuss the issues in this matter. As a result, on May 6, 2014, the Parties executed a stipulation of settlement ("Stipulation"). The Stipulation provides the following<sup>4</sup>:

- (1) The Parties agree that \$31,246,335 of Major Storm Costs from the Major Storm Events, consisting of \$5,600,555 in capital costs and \$25,645,780 in deferred O&M costs, are deemed reasonable, prudent and eligible and appropriate for inclusion in, and recovery through, Rockland's base rates to be set in the Base Rate Case, currently pending before Administrative Law Judge Irene Jones at the Office of Administrative Law.
- (2) The Parties agree that the amounts set forth in Paragraph one above for the Major Storm Costs, both capital and deferred O&M, shall be transmitted for inclusion in Rockland's Base Rate Case and shall be authorized for recovery in and through the revenue requirements and base rates that will be set at the conclusion of the Base Rate Case. The capital Major Storm Costs of \$5,600,555 shall be included in rate base in the Base Rate Case. The deferred O&M Major Storm Costs of \$25,645,780 shall be amortized over a period to be determined in the Base Rate Case. The Parties agree to reserve the right to take whatever position each deems appropriate

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<sup>3</sup> In re the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Docket No. ER13111135.

<sup>4</sup> Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions of this Order.

regarding the length of the amortization period for the recovery of the deferred O&M Major Storm Costs of \$25,645,780 and regarding the carrying charge to be applied to the unamortized balance during the amortization of the deferred O&M Major Storm Costs of \$25,645,780.

- (3) Subject to Board approval, the Company will conduct two pilot programs: one to track the time spent by contractors to determine the feasibility and advisability of directly assigning costs between the Company and related companies served by those contractors, and another to determine the feasibility and advisability of assigning some or all of its customer service costs based on the number of customer direct contacts with customer service representatives. These pilot programs will commence on the date that the Board approves this Stipulation and terminate after a twelve-month period. The Company's ability to conduct these pilot programs will be contingent on the occurrence and nature of major events in the Company's service territory during this twelve-month period. In the event that there are no major events during the twelve-month period, the Company will extend the pilot an additional twelve months in order to collect the data. The Company is conducting these two pilot programs for informational purposes only and will provide Rate Counsel and Board Staff with the results of these two pilot programs. The Company does not agree to and shall not be obligated to use the results of these pilot programs to assign storm costs associated with major events, and reserves its rights regarding future allocations of Major Storm Event costs.

### **DISCUSSION AND FINDINGS**

The March 20 Order required certain information to be filed by the utilities which would be reviewed by Board Staff and other interested parties to determine if the preparation, recovery and restoration costs associated with the Major Storm Events were prudent. According to the Stipulation, the Major Storm Events costs have been reviewed by the Parties, and it has been determined that the majority of the costs incurred by Rockland for the Major Storm Events in 2011 and 2012 are reasonable and prudent. Based on the Board's review of the petition and Stipulation, the Board **HEREBY FINDS** that the requirements of the March 20 Order have been satisfied.

Based on the Board's careful review and consideration of the record in this proceeding, the Board **HEREBY FINDS** the Stipulation to be reasonable and in accordance with the law, striking an appropriate balance between the needs of customers and of the Company. Therefore, the Board **HEREBY FINDS** that the 2011 and 2012 Major Storm Costs may be recovered from ratepayers. The Board **HEREBY RETURNS** the 2011 and 2012 Major Storm Costs to the Base Rate Case with the exact manner of recovery to be decided within the Base Rate Case.

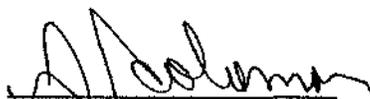
The Board **HEREBY AUTHORIZES** RECO to undertake the pilot programs described above, as these could produce information that will be useful in evaluating future requests for cost recovery.

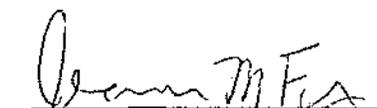
Accordingly, the Board **HEREBY ADOPTS** the Stipulation in its entirety, and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein.

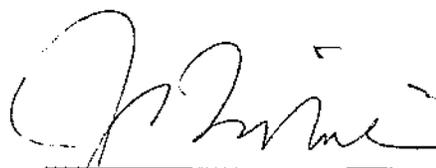
This Order shall become effective on June 1, 2014.

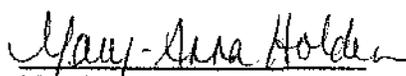
DATED: 5/21/14

BOARD OF PUBLIC UTILITIES  
BY:

  
DIANNE SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

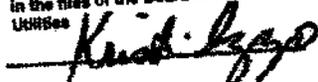
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



DOCKET NO. AX13030196 – IN THE MATTER OF THE BOARD'S ESTABLISHMENT OF  
A GENERIC PROCEEDING TO REVIEW THE PRUDENCY OF COSTS INCURRED BY  
NEW JERSEY UTILITY COMPANIES IN RESPONSE TO MAJOR STORM EVENTS IN  
2011 AND 2012

DOCKET NO. EO13070611 – IN THE MATTER OF THE BOARD'S REVIEW OF THE  
PRUDENCY OF THE COSTS INCURRED BY ROCKLAND ELECTRIC COMPANY IN  
RESPONSE TO MAJOR STORM EVENTS IN 2011 AND 2012

SERVICE LIST

**Rockland Electric:**

James C. Meyer, Esq.  
Riker, Danzig, Scherer, Hyland & Perretti, LLP  
Headquarters Plaza  
One Speedwell Avenue  
Post Office Box 1981  
Morristown, NJ 07962-1981  
[jmeyer@riker.com](mailto:jmeyer@riker.com)

John L. Carly, Esq.  
Assistant General Counsel  
Consolidated Edison Company of NY, Inc.  
Law Department, Room 1815-S  
4 Irving Place  
New York, NY 10003  
[carleyj@coned.com](mailto:carleyj@coned.com)

**Board of Public Utilities:**

44 South Clinton Avenue, 9<sup>th</sup> floor  
Post Office Box 350  
Trenton, NJ 08625-0350

**Division of Energy**

Jerry May, Director  
Rosalie Serapiglia, Manager  
Alice Bator, Chief  
Tom Walker, Chief  
Robert Schultheis, Chief  
Nanik Aswani  
David Ballengee  
Rene Demuynck  
Henry Rich  
Ricky John

**Rate Counsel:**

Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Brian Weeks, Esq.  
[bweeks@rpa.state.nj.us](mailto:bweeks@rpa.state.nj.us)

James W. Glassen, Esq.  
[jglassen@rpa.state.nj.us](mailto:jglassen@rpa.state.nj.us)

Ami Morita, Esq.  
[amorita@rpa.state.nj.us](mailto:amorita@rpa.state.nj.us)

Brian Lipman, Litigation Manager  
[blipman@rp.state.nj.us](mailto:blipman@rp.state.nj.us)

Lisa Gurkas  
[lgurkas@rpa.state.nj.us](mailto:lgurkas@rpa.state.nj.us)

Kevin Mara, P.E.  
Vice President  
Hi-Line Engineering  
a GDS Company  
1850 Parkway Place  
Suite 800  
Marietta, GA 30067  
[Kevin.Mara@gdsassociates.com](mailto:Kevin.Mara@gdsassociates.com)

**Executive Director**  
Paul Flanagan, Esq.

**Counsel's Office**  
Tricia Caliguire, Esq.  
Bethany Rocque-Romaine, Esq.  
Megan Lupo, Esq.

**Economist Office**  
Mark Beyer  
Christine Lin  
Dr. Son Lin Lai  
Jackie O'Grady

**Deputy Attorneys General:**  
Division of Law  
124 Halsey Street  
Post Office Box 45029  
Newark, New Jersey 07101-45029

Carolyn McIntosh, DAG  
[carolyn.mcintosh@dol.lps.state.nj.us](mailto:carolyn.mcintosh@dol.lps.state.nj.us)

Alex Moreau, DAG  
[alex.moreau@dol.lps.state.nj.us](mailto:alex.moreau@dol.lps.state.nj.us)

Babette Tenzer, DAG  
[babette.tenzer@dol.lps.state.nj.us](mailto:babette.tenzer@dol.lps.state.nj.us)

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

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I/M/O THE BOARD'S ESTABLISHING A : STIPULATION OF SETTLEMENT  
GENERIC PROCEEDING TO REVIEW THE :  
PRUDENCY OF COSTS INCURRED BY NJ :  
UTILITY COMPANIES IN RESPONSE TO :  
MAJOR STORM EVENTS IN 2011 AND :  
2012 : BPU Docket No. AX13030196  
:  
I/M/O THE BOARD'S ESTABLISHING A :  
GENERIC PROCEEDING TO REVIEW THE :  
PRUDENCY OF COSTS INCURRED BY :  
ROCKLAND ELECTRIC COMPANY IN :  
RESPONSE TO MAJOR STORM EVENTS : BPU Docket No. EO13070611  
IN 2011 AND 2012 :

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**STIPULATION OF SETTLEMENT**

**APPEARANCES:**

James C. Meyer, Esq., Riker Danzig Scherer Hyland & Perretti, LLP, and John L. Carley, Esq., Assistant General Counsel, for the Petitioner, Rockland Electric Company

Brian O. Lipman Esq, Litigation Manager, Brian Weeks, Esq., Deputy Rate Counsel and Christine M. Juarez, Esq., Assistant Deputy Rate Counsel, Division of Rate Counsel (Stefanie A. Brand, Esq., Director)

Alex Moreau, Esq., Deputy Attorney General, and Carolyn McIntosh Esq. Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (John Hoffman, Attorney General of New Jersey)

THIS STIPULATION OF SETTLEMENT ("Stipulation" or "Settlement") is made as of May 2, 2014, by and among Rockland Electric Company ("RECO" or the "Company"), the New Jersey Division of Rate Counsel ("Rate Counsel") and Staff of the Board of Public Utilities ("Staff") (collectively, the "Parties").

### Background

On March 20, 2013, the Board of Public Utilities (“Board”) issued an Order establishing a generic proceeding to examine the prudence of costs incurred by New Jersey utilities in response to major storm events in 2011 and 2012. Among other things, the Order required any utility that seeks reimbursement for these costs from its customers to file a report for evaluation and prudence review under its own separate docket within the generic storm costs proceeding. As required by the March 20, 2013 Order, RECO filed a Report dated July 1, 2013 (“Report”) detailing its unreimbursed major storm costs.

On September 30, 2013, RECO filed a Verified Petition (“Petition”) with supporting testimony, exhibits and appendices in the above captioned generic proceeding and RECO specific sub-docket (the “RECO Storm Costs Case”). The Petition requested that the Board issue an Order finding that the unreimbursed, uninsured incremental preparation, recovery and restoration costs incurred by RECO associated with Hurricane Irene in 2011, the October 2011 Snow Storm, and Superstorm Sandy in 2012 (collectively, the “Major Storm Events”) were reasonably and prudently incurred, and authorizing RECO to recover its costs from the Major Storm Events (“Major Storm Costs”) from customers in rates. Specifically, in its Petition RECO requested recovery of Major Storm Costs consisting of: deferred O&M costs of \$2,986,587.8 and capital costs of \$483,640 related to Hurricane Irene; deferred O&M costs of \$5,544,120.5 and capital costs of \$690,965 related to the October Snowstorm; and deferred O&M costs of \$16,843,156.6 and capital costs of \$4,425,950 related to Hurricane Sandy.

On November 27, 2013, RECO filed a Verified Petition seeking an increase in base rates that is docketed in BPU Docket No. ER13111135 and OAL Docket No. PUC17625-

2013N (“RECO Base Rate Case”).<sup>1</sup> In its Verified Petition in the Base Rate Case, RECO proposed a three-year amortization of the Major Storm Costs to be determined in the RECO Storm Costs Case. The RECO Base Rate Case is currently pending at the Office of Administrative Law before the Honorable Irene Jones, ALJ.

By Order Designating Commissioner and Setting Manner of Service dated November 22, 2013 in the RECO Storm Costs Case, the Board designated Commissioner Mary-Anna Holden as the presiding officer. Commissioner Holden issued a Prehearing Order dated February 7, 2014, establishing a procedural schedule including evidentiary hearings. No motions to intervene were filed. The Company, Staff and Rate Counsel were therefore the only parties to this proceeding.

In its Petition, the Company described the unprecedented severity and destructive impact of the Major Storm Events on its service territory. On August 27-28, 2011, Hurricane Irene crossed the Company’s service territory as a strong tropical storm, lashed the area with wind gusts approaching 50 mph and deluged the Company’s service territory with eight to eleven inches of rainfall. Record flooding occurred in many areas of the service territory. The devastation from Hurricane Irene badly damaged RECO’s service territory. There were nearly 1,500 damage incidents. There were 34 poles, 58 transformers, and nearly 6,000 feet of wire which were damaged and had to be replaced. Over 25,500 customers were affected by 875 “no power incidents,” with some experiencing more than one outage.

On October 29, 2011, an unusual fall snow storm produced 6 to 12 inches of snow in RECO’s service area. The storm’s heavy wet snow, coupled with its timing during the year when a

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<sup>1</sup> *I/M/O the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for Electric Service, and Its Depreciation Rates; Termination of the Smart Grid Surcharge; Establishment of A Storm Hardening Surcharge; And For Other Relief*, BPU Docket No. ER13111135, OAL Docket No. PUC17625-2013N (“RECO Base Rate Case”).

substantial number of trees had not yet lost their foliage, produced significant impacts in the Company's service area. The storm downed trees and limbs which made contact with the Company's overhead electric facilities. In many cases there were several damage locations for each incident which all needed assessment and repair. As a result of this major storm, 34 poles, 35 transformers and 5,014 feet of overhead wire required repair or replacement. There were 1,569 "no power incidents" affecting over 34,700 customers in the RECO service area.

The devastation wrought by Superstorm Sandy dwarfed the harm from the prior severe storms. Superstorm Sandy arrived in the early evening on Monday, October 29, 2012. Its intense winds, with gusts up to 85 mph, punished the region for approximately 30 hours. The combination of hurricane level winds and the prolonged period of the storm's presence caused unprecedented damage throughout the Company's service territory. Eighty-seven percent, or approximately 63,300 of RECO's customer base of approximately 72,600, lost power. This was approximately the combined outage level of the previous two worst storms in the Company's history, *i.e.*, Hurricane Irene and the October 2011 Snowstorm. There were a total of 175 poles, 145 transformers and 64,000 feet of overhead wire which required repair or replacement. Superstorm Sandy damaged six transmission lines, two substations and 38 distribution circuits. Distribution damage occurred at approximately 2,600 separate locations in the RECO service area. RECO also experienced a Nor'easter during Superstorm Sandy restoration. The Nor'easter brought high winds and up to four inches of snow to the RECO service area. This resulted in additional customer outages and hindered Superstorm Sandy restoration efforts.

The remediation of the damage to the RECO system from the Major Storm Events and the restoration of electric service to the large number of impacted customers involved the Company workforce and a large supplemental contractor workforce, as well as significant capital

costs. The Company demonstrated its recovery efforts in the testimony of its witness Patrick Burke and detailed the costs of those efforts in the Verified Petition and attached exhibits. The Company also furnished detailed major events reports for each of the Major Storm Events.

On March 28, 2014, the Company filed its verified Page 1A of Exhibit A to the Petition, which updated the Company's deferred O&M Major Storm Event costs (\$25,645,780) and total Major Storm Event costs (\$31,246,335) for which recovery is requested.

Between the filing of the Company's Petition and this Stipulation, the Company responded to extensive discovery requests. The Company responded to 50 formal discovery requests (not including additional subparts), and provided detailed information regarding specific storm-related costs and the Company's policies, procedures and efforts applied in responding to the Major Storm Events. Rate Counsel also engaged a consultant, Hi-Line Engineering, to assist in its review of the Company's Petition and discovery responses.

Proper notice has been given to Municipal Clerks and County Executive Directors and public advertisement in a newspaper with circulation in the Company's service territory, and public hearings on RECO's Petition and the RECO Base Rate Case were held on April 30, 2014 at 3:30 p.m. and April 30, 2014 at 6:30 p.m., in Mahwah, New Jersey.

The Parties held an in-person settlement conference on March 14, 2014 and held multiple additional telephone settlement conferences. The Parties have reviewed the Report, the Petition and exhibits, including detailed pre-filed testimony, schedules and appendices. The Parties also propounded discovery and responses, and information was exchanged during settlement discussions. As a result, the Parties have agreed to reasonably, fully and finally resolve all factual and legal issues in this matter by Stipulation of Settlement. In consideration of

the recitals and mutual promises and covenants set forth herein, the Parties DO HEREBY STIPULATE AND AGREE:

1. The Parties agree that \$31,246,335 of Major Storm Costs from the Major Storm Events, consisting of \$5,600,555 in capital costs and \$25,645,780 in deferred O&M costs, are deemed reasonable, prudent and eligible and appropriate for inclusion in, and recovery through, RECO's base rates to be set in the RECO Base Rate case.

2. The Parties agree that the amounts set forth in Paragraph 1 above for Major Storm Costs, both capital and deferred O&M, shall be transmitted for inclusion in RECO's Base Rate Case and shall be authorized for recovery in and through the revenue requirements and base rates that will be set at the conclusion of the Base Rate Case. The capital Major Storm Costs of \$5,600,555 shall be included in rate base in the Base Rate Case. The deferred O&M Major Storm Costs of \$25,645,780 shall be amortized over a period to be determined in the Base Rate Case. The Parties reserve the right to take whatever position each deems appropriate regarding the length of the amortization period for the recovery of the deferred O&M Major Storm Costs of \$25,645,780 and regarding the carrying charge to be applied to the unamortized balance during the amortization of the deferred O&M Major Storm Costs of \$25,645,780. The Parties shall provide ALJ Jones with a copy of this Stipulation, and if approved by the Board, the agreements herein shall be binding on the Parties in the Base Rate Case as if these agreements were reached in the Base Rate Case.

3. Subject to the Board's approval of this Stipulation in its entirety and the provisions of this Paragraph 3, the Company agrees to conduct two pilot programs. The first pilot program will attempt to track the time spent by a sampling of certain identified contractors in New Jersey, New York and/or Pennsylvania during "major events", as that term is defined by

N.J.A.C. 14:5-1.2 to determine the amount of time these contractors spend in the service territories of RECO, Orange and Rockland Utilities, Inc. (“Orange and Rockland”) and Pike County Light & Power Company (“PCL&P”), respectively. The purpose of this program will be to collect data and evaluate the feasibility and advisability of directly assigning the costs of these contractors to the service territory in which they worked rather than assigning the costs based upon an allocation methodology. The implementation of this pilot does not invalidate prior allocation methodologies, nor foreclose the use of any such allocation methodologies in future matters. The second pilot program will study the feasibility and advisability of assigning some or all of its customer service costs among the customers of RECO, Orange and Rockland and PCL&P based upon the number of customer direct contacts with the Company's internal and contracted customer service representatives. These pilot programs will commence on the date that the Board approves this Stipulation and terminate after a 12 month period. The Company's ability to conduct these pilot programs will be contingent on the occurrence and nature of major events in the Company's service territory during this 12 month period. In the event that there are no major events during that 12 month period, the Company will extend the pilot an additional 12 months in order to collect the data. The Company is conducting these two pilot programs for informational purposes only and will provide Rate Counsel and Board Staff with the results of these two pilot programs. The Company does not agree to and shall not be obligated to use the results of these pilot programs to assign storm costs associated with major events, and reserves its rights regarding future allocations of major storm event costs.

4. The Parties agree that this Stipulation is voluntary, consistent with law, and fully dispositive of the issues addressed herein. The Parties have entered this Stipulation

after consideration of the Petition and updates thereto, the pre-filed testimony of the Parties, and discovery in this matter.

5. The Parties hereby request that the Board approve this Stipulation and issue an appropriate written Order as soon as practicable so that the items addressed in Paragraphs 1 and 2 above may be timely included and addressed in the pending RECO Base Rate Case.

6. Each Party specifically waives any right it may have to seek reconsideration of or to appeal an order by the Board that approves this Stipulation in the manner provided for herein without modification.

7. This Stipulation contains mutually balancing and interdependent provisions and is intended to be accepted and approved in its entirety. This Stipulation is an integral settlement and the various parts hereof are not severable without upsetting the balance of agreements and compromises achieved among the Parties. In the event the Board disapproves this Stipulation as a whole, it shall be null and void. In the event that any particular aspect of this Stipulation is not accepted and approved by the Board in its entirety, without modification, or is modified by a court of competent jurisdiction: (i) the Parties are not waiving any legal or procedural rights, arguments or claims they may have before the Board or in any forum, and (ii) this Stipulation shall, at the option and discretion of any Party aggrieved thereby, exercised by written notice to the other Parties within ten days after receipt of any such adverse decision, be null and void in which case the Parties shall be placed in the same position that they were in immediately prior to its execution.

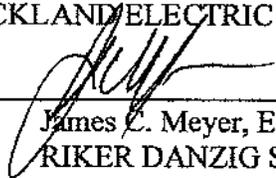
8. This Stipulation represents a negotiated compromise resolution that has been made exclusively for the purpose of resolving the issues addressed in the above captioned

case and docket, and the matters relating to the RECO Base Rate Case set forth in Paragraphs 1 and 2 above. Although binding on the Parties with respect to the issues resolved herein in this proceeding, this Stipulation, in total or by specific item, is in no way binding upon the Parties and is not to be considered or cited as precedent in favor of or against their respective positions on any issue in any other proceeding, except to enforce the terms of this Stipulation. The Parties agree that the resolution of the issues herein shall apply only to the above-captioned case and that any similar future cases shall be reviewed by the Board on an individual basis, except as specifically set forth herein. This Stipulation is without prejudice to the positions of the respective Parties or of the Board with respect to any future base rate cases or other proceedings involving the Company, except as specifically set forth herein. Further, by executing this Stipulation, no Party waives any rights it possesses under any prior Stipulation or Board Order, except where the terms of this Stipulation supersede such prior Stipulation. This Stipulation shall be governed and construed in accordance with the laws of the State of New Jersey.

9. This Stipulation may be executed in one or more counterparts. Each Party has caused its duly authorized representative to execute below and deliver this Stipulation.

ROCKLANDELECTRIC COMPANY

By: \_\_\_\_\_

  
James C. Meyer, Esq.

RIKER DANZIG SCHERER  
HYLAND & PERRETTI LLP

Title: Counsel

Dated: \_\_\_\_\_

5/2/14

STEFANIE BRAND  
Director, New Jersey Division of Rate  
Counsel

By: Brian Weeks  
Brian Lipman, Esq.

Title: ~~Litigation Manager~~ Weeks Deputy Rate Counsel

Dated: May 2, 2014

JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF  
NEW JERSEY  
Attorney for the Staff of the Board of Public  
Utilities

By: Caroline McIntosh  
Caroline McIntosh

Title: Deputy Attorney General

Dated: May 6, 2014

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