Agenda Date: 6/22/18
Agenda Item: 8H

STATE OF NEW JERSEY

Board of Public Utilities
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CLEAN ENERGY

IN THE MATTER OF THE COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCE ANALYSIS FOR THE FISCAL YEARS 2019 - 2022	))))	ORDER DOCKET NO. QO18040392

Parties of Record:

Janja Lupse, CLEAResult Consulting Inc.
Diane Zukas, TRC Energy Services
Michael Ambrosio, TRC Energy Services
Mark Mader, Jersey Central Power & Light
Timothy White, Atlantic City Electric
Sandra Eason-Perez, Orange & Rockland Utilities
Bruce Grossman, South Jersey Gas Company
Susan Ringhof, Public Service Electric & Gas Company
Tracey Thayer, Esq., New Jersey Natural Gas
Mary Patricia Keefe, Esq., Elizabethtown Gas Company
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

SERVICE LIST ATTACHED

BY THE BOARD:

This Order memorializes action taken by the Board of Public Utilities (Board or BPU) at its June 22, 2018 public meeting, where, among other things, the Board considered and determined the funding for New Jersey's Clean Energy Program (NJCEP) for fiscal year (FY) 2019 (FY19).[1]

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[1] The funding levels approved in this Order are subject to State appropriations law.

BACKGROUND & PROCEDURAL HISTORY

On February 9, 1999, the Electric Discount and Energy Competition Act (EDECA or the Act) was signed into law, creating the societal benefits charge (SBC) to fund programs for the advancement of energy efficiency (EE) and renewable energy (RE) in New Jersey. The Act also provided for the Board to initiate proceedings and undertake a comprehensive resource analysis (CRA) of EE and RE programs in New Jersey every four years. The CRA would then be used to determine the appropriate level of funding over the next four years for the EE and Class I RE programs, which are part of what is now known as NJCEP. Accordingly, in 1999, the Board initiated its first CRA proceeding and, in 2001, it issued an order setting funding levels, the programs to be funded, and the budgets for each those programs, all for the years 2001 through 2003. Since then, the Board has issued numerous Orders setting the funding levels, related programs, and program budgets for the years 2004 – Fiscal Year 2018 (FY18).[2]

On April 23, 2018, the Board provided public notice of a May 15, 2018 public hearing regarding a to-be-released draft FY19-22 CRA and related programs and budgets for FY19. On May 3, 2018, a notice regarding the posting to the NJCEP website of a FY19-22 CRA Straw Proposal, dated April 24, 2018 (Straw Proposal), was distributed to the EE, RE, and other NJCEP listservs. The distributions and postings requested comments on the Straw Proposal, with a due date of May 31, 2018. The Straw Proposal was discussed at the May 15 public hearing and at the EE and the RE Stakeholder Group meetings held on May 18, 2018. In addition, the New Jersey Department of Environmental Protection (NJDEP), by email dated June 21, 2018, confirmed: (a) the Board had consulted with NJDEP regarding the Straw Proposal including, without limit, the Proposed FY19 Funding Level set forth therein (as defined below); and (b) NJDEP agreed with the Proposed FY19 Funding Level, stating they were "acceptable and consistent with the overall goals."

STRAW PROPOSAL

The following summarizes the key components of the Straw Proposal.

Strategic Plan

The Straw Proposal attached a draft Strategic Plan prepared by TRC, the NJCEP Program Administrator, which proposed objectives, energy savings goals, and program changes for NJCEP. As described elsewhere in this Order, Board Staff is recommending that the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws (as defined below) are conducted.

Proposed Funding Levels

The Straw Proposal's funding levels include two key components: (i) the level of funding estimated to be required to achieve the goals set out in the Strategic Plan over the four years

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[2] In the early years, the budgets and programs were based on calendar years, but, in 2012, the Board determined to begin basing the budgets and programs on fiscal years to align with the overall State budget cycle.

covered by the Plan; and (ii) the level of funding designated for State Energy Initiatives. While the Straw Proposal included a proposed four-year Funding Level, Board Staff, for reasons described elsewhere in this Order, is now recommending that the Board approve only the Proposed FY19 Funding Level in the present Order and defer any decision regarding Funding Levels for FY20 and beyond.

For FY19, Board Staff is recommending that the Board set a new SBC funding level of $344,665,000, which is the same funding level approved by the Board since FY15. When combined with other sources of funds, it results in total FY19 funding of $363,735,000 (collectively, the Proposed FY19 Funding Level). Board Staff estimates that the Proposed FY19 Funding Level will be sufficient to maintain a full portfolio of programs. The following table provides more details regarding the Proposed FY19 Funding Level:

Proposed FY19 Funding Levels

Budget Category	**New SBC Funding**	**Total FY19 Funding**
Energy Efficiency:		
Residential	$ 57,000,000	$ 57,000,000
Low Income	30,000,000	30,000,000
Commercial & Industrial	73,445,000	73,445,000
Multi-family EE	6,000,000	6,000,000
State Facilities	5,000,000	5,000,000
Energy Efficiency	$ 171,445,000	$ 171,445,000
Distributed Energy Resources	16,000,000	16,000,000
Renewable Energy	2,550,000	2,550,000
EDA Programs	-	109,000
NJCEP Administration	15,370,000	15,370,000
NJCEP Total	**$ 205,365,000**	**$ 205,474,000**
State Energy Initiatives	**139,300,000**	**158,261,000**
Grand Total	**$ 344,665,000**	**$ 363,735,000**

SBC Collection Schedule

The Straw Proposal proposed that the Board utilize the same methodology and inputs for allocating the cost of the funding to the state's electric and natural gas utilities as was approved by the Board for FY18, resulting in the below table of payments to be made by each utility to the NJCEP Trust Fund:

[Table Follows]

Proposed FY19 Utility Payments

Monthly Utility Funding Levels

FY19	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
ACE	$3,040,129.02	$3,298,576.23	$2,979,171.08	$2,296,585.08	$2,009,334.68	$2,230,776.65	$2,385,797.15	$2,663,851.81	$2,250,475.05	$2,257,824.90	$1,678,113.19	$2,299,609.90	$29,390,244.74
JCP&L	$7,376,940.37	$7,166,519.80	$5,550,300.96	$5,160,668.05	$5,259,682.16	$5,910,888.15	$5,730,247.61	$5,278,555.30	$5,137,335.14	$4,788,739.45	$5,054,135.67	$6,037,499.56	$68,451,512.22
PS-Electric	$14,191,816.86	$14,006,289.75	$12,605,595.72	$10,279,115.29	$9,872,885.68	$11,378,687.02	$11,898,160.48	$11,535,312.96	$11,084,318.65	$10,123,038.53	$10,112,011.91	$11,574,337.04	$138,661,569.89
RECO	$562,236.45	$594,657.30	$542,669.42	$424,121.95	$387,692.71	$431,838.96	$487,077.35	$433,233.48	$398,461.48	$380,713.39	$389,255.65	$461,325.93	$5,493,284.07
NJN	$425,199.38	$415,067.46	$415,340.15	$736,309.16	$1,460,445.20	$2,381,557.93	$2,876,264.57	$2,403,232.56	$1,953,279.77	$1,067,369.79	$564,364.98	$419,234.43	$15,117,665.38
Etown	$353,805.37	$347,446.84	$356,230.79	$446,867.19	$824,970.46	$1,290,410.69	$1,677,472.72	$1,791,423.74	$1,488,967.35	$1,028,967.93	$624,753.16	$406,115.77	$10,637,432.01
PS-Gas	$2,177,420.93	$1,923,034.84	$2,272,755.75	$2,645,722.11	$4,797,391.87	$8,422,056.36	$10,933,070.24	$10,072,369.94	$8,743,710.85	$6,140,936.04	$3,637,573.15	$2,452,565.73	$64,218,607.81
SJG	$489,674.22	$472,069.56	$506,034.54	$543,827.52	$881,530.24	$1,524,279.82	$2,062,929.29	$1,960,690.22	$1,820,075.22	$1,182,617.50	$692,250.05	$558,705.70	$12,694,683.88
Total	$28,617,222.60	$28,223,661.78	$25,228,098.41	$22,533,216.35	$25,493,933.00	$33,570,495.58	$38,051,019.41	$36,138,670.01	$32,876,623.51	$26,970,207.53	$22,752,457.76	$24,209,394.06	$344,665,000.00

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Rate Impacts

The Proposed FY19 Funding Level represents a continuation of the current funding level and therefore will have no incremental impact on rates. Any adjustments to rates necessary to collect the Proposed FY19 Funding Level will, as necessary and appropriate, be addressed in individual utility rate cases.

SUMMARY OF COMMENTS FROM PUBLIC STAKEHOLDERS

Oral testimony regarding the Straw Proposal was provided at the May 15, 2018 public hearing by Core Metrics, a coalition of environmental organizations including: the Environmental Defense Fund, the Natural Resources Defense Council, the New Jersey Conservation Foundation, the New Jersey League of Conservation Voters, The Nature Conservancy, the Pinelands Preservation Alliance, the NY/NJ Baykeeper, and the Raritan Headwaters Association (Coalition), the New Jersey Division of Rate Counsel (Rate Counsel), South Jersey Gas (SJG), Environment New Jersey (Environment NJ), Green Waste Energy (Green Waste), Jeanne Fox, the Center for Intelligent Network Systems at Stevens Institute (CINS), the New Jersey Utilities Association (NJUA), and the New Jersey Sierra Club (Sierra Club).

In addition, written comments regarding the Straw Proposal were submitted by: Atlantic City Electric (ACE), the American Council for an Energy Efficient Economy (ACEEE), Airtech Vacuum (Airtech), Consolidated Energy Design (CED), Core Metrics, the Coalition, Green Waste, the Home Performance Coalition (HPC), Jeanne Fox and Jonathan Ratner, M&E Engineers (M&E), MaGrann Associates (MaGrann), the National Fuel Cell Research Center (NFCRC), the New Jersey Credit Union League (CU League), the New Jersey Sierra Club Conservation Committee (Sierra Committee), the New Jersey Business & Industry Association (NJBIA), New Jersey Natural Gas (NJNG), NJUA, Public Service Electric and Gas Company (PSE&G), ReVireo, Rutgers University Center for Ocean Observing Leadership (RU COOL), SJG, ThinkEco, and a coalition of environmental and community organizations including Vote Solar, Grid Alternatives, EarthJustice, Isles, Inc., and Environment New Jersey (Solar Coalition). Below is a summary of the testimony and comments as well as Board Staff's responses to them.

Board Staff notes that the process and schedule for commenting on the Straw Proposal, the associated draft Clean Energy Programs and Budgets for FY19 (FY19 Compliance Filings and Budgets), and the proposed FY19 Protocols to Measure Resource Savings were very similar and that all three proposals are being presented to the Board on the same day. Because some comments do not readily lend themselves to being classified as being about one proposal versus one or more of the others, Staff strongly encourages readers to read the comments and responses regarding all three proposals.

Board Staff also notes that on May 23, 2018, after the release of the Straw Proposal, Governor Murphy, signed the Renewable Energy Law, A-3723, 2018 c. P.L.17 into law and also signed the related Executive Order 28 (collectively, 2018 RE Laws). The new laws have the potential to significantly modify the landscape for the delivery of EE and RE in New Jersey. Among other things, the 2018 RE Laws direct: (a) electric utilities to reduce the use of electricity by 2% and gas utilities by 0.75% within five (5) years; (b) the Board to conduct and complete a study to determine the targets for full economic, cost-effective potential for savings and peak demand reductions within one (1) year, (c) the Board to adopt quantitative performance indicators for each utility taking into account the utility's EE measures and other non-utility EE measures, including the impacts of NJCEP, within one (1) year; and (d) state agencies to develop an updated Energy Master Plan (EMP) that provides a path to 100 % clean energy by 2050 within one (1) year. Several of the comments summarized below discuss the potential impacts of the 2018 RE Laws on the Straw Proposal.

Strategic Plan & General

Comment: NJUA, ACE, PSE&G, NJNG, PSE&G, the Coalition, Environment NJ, and ACEEE pointed to the adoption of the 2018 RE Laws and their impacts on the Straw Proposal, including those described above in this Order. The 2018 RE Laws make the utilities primarily accountable for achieving the aggressive new energy savings goals. For example, according to the Straw Proposal and its draft Strategic Plan, the 2018 RE Laws make utilities responsible for as much as 69% of the mandated electric savings and 71% of the mandated gas savings, with NJCEP contributing only the remainder of the savings. Further, the utility commenters each have experience managing energy efficiency programs. However, despite the utility commenters' new energy savings responsibilities and existing qualifications for managing the programs necessary to achieving them, the Straw Proposal and its Strategic Plan make it almost impossible for the utilities to meet their responsibilities in that those documents require that utility EE programs be designed so as not to compete with NJCEP and provide for expanded NJCEP Commercial & Industrial (C&I) and Multifamily Programs that will further limit the universe in which the utility programs could operate. The utilities should not be accountable for achieving the savings goals while they are simultaneously deprived of most of the tools necessary to do so. Instead, at a minimum, the Board should suspend and/or adjourn the portions of the Straw Proposal, its Strategic Plan, and the related Compliance Filings that propose substantial changes to the existing NJCEP and/or make funding determinations for FYs after FY19. Doing so would allow for the necessary discussion, stakeholder and public input, and analysis necessary to design and coordinate the various programs and other initiatives that will be driven by the RE Laws. ACEEE commented:

> A key question will be to what extent individual utilities operate these expanded programs, whether the utilities working together operate these programs, and/or to what extent the CEP programs are expanded or reoriented. We recommend that the parties sit down and try to work out a plan, most likely combining statewide programs where markets are statewide, with individual utility programs targeting more local efforts. These programs should be complementary and not competing.

ACEEE pointed to NYSERDA as a potential model of a state-wide agency managing statewide programs while utilities managing programs better suited for the local markets within their service areas. Rate Counsel commented that NJCEP is not sufficiently coordinated with the utility clean energy programs and other clean energy initiatives.

Response: Board Staff agrees the 2018 RE Laws significantly change the landscape for the delivery of EE programs. However, Board Staff disagrees that NJCEP, or the proposed changes to NJCEP, will limit a utility's ability to meet the requirements of the 2018 RE Laws. Instead, Board Staff agrees with ACEEE that key questions the Board must decide are: i) to what extent individual utilities operate these expanded programs, ii) whether the utilities working together operate these programs: and/or iii) to what extent NJCEP's programs are expanded or reoriented.

Board Staff submits that the Board's decisions relative to the 2018 RE Laws should be guided by two key principles: i) EE programs should be delivered consistently across the State where markets dictate the need for consistency to avoid customer and contractor confusion; and ii) EE programs should be delivered at the lowest possible cost to ratepayers, which would include minimizing duplicative administrative structures where possible. These two principles should apply regardless of who is managing the delivery of the programs. Board Staff anticipates and welcomes a robust debate regarding the merits of these principles as well as how to best structure the delivery of EE programs in a manner that furthers the principles the Board adopts.

Board Staff recognizes that decisions made by the Board regarding the 2018 RE Laws could significantly impact both NJCEP and existing utility programs, as well as several new programs proposed by utilities that are currently pending before the Board. However, Board Staff submits it would be inappropriate to pre-judge the outcome of those decisions or to forestall beneficial program changes while awaiting those decisions.

The proposed program changes included in the Proposed FY19 Compliance Filings and Budgets are intended to increase the energy savings delivered by NJCEP and to reduce the cost of delivered savings; they are not intended to limit the ability of utilities to meet the requirements of the RE Laws. Indeed, the more complex proposed program changes contained in Volume 2 of the TRC Proposed FY19 Compliance Filing that is part of the FY19 Compliance Filings and Budgets (Proposed Volume 2 Changes) expressly require further development before implementation, which development "would entail, among other things, further opportunities for public and stakeholder input and comment as details are developed and further review and approval by the [Board]." Those opportunities will likely include consideration of the factors identified in the 2018 RE Laws, and some of the input on the Proposed Volume 2 Changes may be sought and received through the proceedings related to the 2018 RE Laws.

The exaggerated fears of some of the commenters are illustrated by their argument that a "new" Multifamily Program will somehow close off the multifamily market from future utility programs. However, NJCEP has had programs that serve the multifamily market since NJCEP's inception in 2007. The proposed changes do not involve NJCEP serving a new market or capturing a market that would then be off limits to utility programs; instead, the proposed changes merely propose a better, more efficient program design that will increase savings and reduce costs. These changes in no way would limit options available to the Board regarding the future structure for delivery of multifamily or other EE programs.

The Board will need to decide numerous complex issues through the proceedings required by the RE Laws. Board Staff submits that the program changes proposed in the Proposed FY19 Compliance Filings will not impact the RE Law proceedings and will not limit the available options, and that they therefore should proceed as planned.

Given the time needed to conduct the required proceedings, followed by the time needed for utilities to implement any programs that result from the Board's decisions, it could take two years or more before the new programs contemplated by the 2018 RE Laws commence operation. It would be a disservice to ratepayers to delay the significant benefits anticipated to result from implementing the proposed program changes in FY19. Instead, Board Staff recommends that those changes be implemented as proposed, including a process to consider and finalize the Proposed Volume 2 Changes in light of the 2018 RE Laws.

Comment: RU COOL commented that the $2,550,000 allocated to RE in FY19 will be inadequate in light of the RE Laws aggressive goals for RE, especially those for offshore wind (OSW).

Response: Board Staff notes the primary source of incentives for RE projects are Renewable Energy Credits (RECs) and Solar Renewable Energy Credits (SRECs). Staff estimates that in FY17 the total cost to ratepayers of RECs and SRECs, plus the cost of utility solar financing programs, exceeded $666,000,000. Staff also notes that, as stated in numerous Board proceedings, the primary source of incentives for Offshore Wind (OSW) will be Offshore Wind Renewable Energy Credits (ORECs). Staff submits that, after including the value of RECs, SRECs, and ORECs, the level of funding included in the proposed FY19 budget is sufficient to support anticipated studies and other activities needed to develop RE, including OSW, markets.

Comment: Core Metrics, M&E, and ThinkEco generally support the Strategic Plan.

Response: Board Staff appreciates the support, but, as described below, recommends the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are being conducted.

Comment: The Sierra Committee recommended that the Board adopt the following primary and secondary objectives for NJCEP, instead of the ones contained in the Straw Proposal and its Strategic Plan:

> The primary object[ive] of the NJCEP is to facilitate effective deployment of Clean Energy, Energy Storage, and Energy Efficiency.
>
> The secondary objective ... is [to m]inimize reliance on fossil fuel electric generation during peak hours.

Response: Board Staff believes the recommended objectives are in principle worthy ones, and it had incorporated their general substance, though not their prioritization, into the objectives contained in the Straw Proposal and Strategic Plan. However, as mentioned, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

Comment: Green Waste commented that the Board through NJCEP should support Advanced Recycling and Energy Conversion (AREC) technologies, which technologies convert municipal solid waste (MSW) into electricity through gasification and/or pyrolysis instead of combustion. Among other things, it should amend N.J.A.C. 14:8-1.2 and 8-2.5 to make AREC a source of Class I RE from which RECs can be produced and sold. Landfill methane gas is such a Class I source. Green Waste also commented that the Strategic Plan devotes an inadequate amount of attention to emerging technologies, especially those emerging in Distributed Energy Resources (DER).

Response: Although Board Staff would welcome the opportunity to gather and analyze more information about AREC technologies through one or more of the processes that may be occurring pursuant to the RE Laws and/or other appropriate processes, the present proceeding is not the proper forum in which to amend the subject regulations. As to Green Waste's second point, Board Staff agrees that it is important to identify and support emerging technologies and respectfully submits that throughout its planning process it identifies presently emerging technologies and expresses its support for them.

Comment: Core Metrics commented that the Straw Proposal and related Compliance Filing may not accurately calculate the cost-effectiveness of NJCEP. For example, the assumption about the social cost of CO_2 emissions is undocumented and there is little explanation as to how and why the costs of SO_2 and NO_x are already included in wholesale electricity prices. Core Metrics further recommended the Board consider the use of the recently-issued National Standard Practice Manual (NSPM), although Core Metrics did not wholeheartedly endorse the NSPM. Core Metrics ultimately recommended the Board update its methods for determining its programs' cost-effectiveness to account for the impact of CO_2, SO_2, and NO_x emissions and the amount of water they save, and Core Metrics offered to assist in such an update. HPC recommended the use of the NSPM.

Response: Board Staff concurs that the Board should consider utilizing the NSPM as a basis for developing updated cost-effectiveness tests that take into consideration non-energy benefits. Board Staff anticipates considering this issue as part of the proceedings required by the RE Laws. With regard to SO_2 and NO_x, Board Staff notes that active markets for trading SO_2 and NO_x exist and that therefore the cost of these emissions are already included in the wholesale price of electricity.

Comment: Jeanne Fox and Jonathan Ratner, and the Solar Coalition, noted the RE Laws direct the Board to commence proceedings to establish a Community Solar Energy Pilot Program (CSEPP). They each encouraged the Board to implement certain features that would ensure low-income participation in the CSEPP and each also offered a variety of other suggestions for designing the CSEPP.

Response: Although Board Staff appreciates the comments and suggestions, the present proceeding is not the proper forum in which to design the CSEPP. The commenters are welcome and encouraged to participate in the CSEPP proceedings; any comments and suggestions they provide in those proceedings will be given careful consideration.

Comment: CED recommended NJCEP provide incentives for permanent peak reductions and for demand response enablement.

Response: Although there are no NJCEP incentives expressly and directly based on permanent peak reductions, many of NJCEP's incentives were set by considering, among other things, the relevant energy efficiency measure's contribution towards reducing peak demand. Such incentives therefore result in permanent peak reductions. Similarly, NJCEP's C&I Buildings, CHP – RE Storage, and Microgrids Programs can and often do provide support for various types of demand response enablement, such as lighting controls and energy storage.

Comment: NFCRC recommended the Board form a focus group to convert its current DER incentive program into a reverse auction program.

Response: Board Staff agrees that a reverse auction may adequately incentivize the installation of certain commodity-like conservation measures, but it, along with most other program sponsors and managers, continues to believe that an incentive program is the most effective way to incentivize emerging DER technologies.

Comment: The CU League supported the Strategic Plan's support for extending financing-based incentives to those low-income homeowners who earned too much to be eligible for Comfort Partners.

Response: Board Staff appreciates the support. However, as mentioned, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

Comment: The CU League disagreed with the Strategic Plan's statement that "[c]learly, where it is available there is a preference for on-bill financing." It instead suggested that different forms of financing can be best for different consumers in different situations.

Response: Board Staff notes that different forms of financing may be beneficial to some consumers in varying situations, but it respectfully submits that the convenience, low transaction costs, and widespread availability of on-bill financing make it generally the preferred means of residential financing. That said, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

Comment: PSE&G commented that the Board should support utility decoupling.

Response: Although Board Staff acknowledges that decoupling might enhance support for EE and RE, the present proceeding is not the proper forum in which to determine decoupling policy.

Comment: Rate Counsel commented it is concerned that the energy savings goals in the Strategic Plan are too conservatively low. The energy savings goal of 0.62% of sales is lower than the national average, and New Jersey's savings in 2016 ranked it #20 among the top 20 states and Pennsylvania.

Response: Board Staff agrees the overall energy savings goal is below what is achievable and below levels being achieved by other leading states. However, it also notes the savings goals represent an increase of over 50% above the estimated FY18 savings and would reduce the cost of savings by over 11%. More importantly, the achievable savings are limited by the level of available funding. The RE Laws will require the Board to establish programs that increase savings to a minimum of 2% of electric sales and 0.75% of gas sales within 5 years (levels above those in most other leading states), and Board Staff will coordinate with Rate Counsel and other stakeholders to develop recommendations for consideration by the Board as to how to best achieve these aggressive savings levels. Board Staff also notes that, as mentioned, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

Comment: ReVireo, a rater participating in the RNC Program and C&I new construction programs, commented that a major impediment to increasing participation and savings for all new construction programs is the lack of consistent energy code enforcement. Each municipality enforces the increasingly complicated energy codes at its own discretion, which skews the baseline when NJCEP is looking at incremental costs for builders/developers to participate. Builders/developers who don't participate in NJCEP sometimes get away with building below energy code standards, so the actual incremental cost of participation in NJCEP can be much higher than NJCEP estimates. Unless and until the State regionalizes or otherwise rationalizes energy code enforcement, ReVireo supports the Strategic Plan's statement: "Achieving a cooperative, coordinated relationship with NJ Department of Community Affairs (DCA) to address code support and verification is needed to increase participation in new construction programs."

Response: Board Staff is anecdotally aware of some potentially inconsistent local code enforcement decisions, but it views this as only one of many possible impediments to participation. It or its Program Administrator have from time to time discussed issues like this with DCA and it intends for such discussions to continue. Board Staff also notes that, as mentioned, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

Comment: ReVireo also commented that another impediment is that the New Jersey Economic Development Authority (EDA) does not require NJCEP participation for its projects. Instead, developers either are allowed to meet other standards, which are treated as equivalent to NJCEP even though they are not by any objective standard, or are allowed to meet NJCEP standards, in which case the developers are allowed to submit documentation evidencing NJCEP standard compliance to EDA, who cannot possibly have as robust verification and quality assurance procedures as NJCEP.

Response: Although Board Staff has confidence in EDA's ability to conduct appropriate reviews of documents submitted to EDA, Board Staff will seek to have discussions with EDA about this issue and others of mutual interest.

Funding Levels

Comment: Environment NJ, NJBIA, the Sierra Club, and Rate Counsel commented that no, or substantially less, SBC funds should be allocated to State Energy Initiatives (SEI).

Response: As stated in the Straw Proposal, energy efficiency programs and investments are supported not only by the Board but also by other State agencies, including, among others, NJDEP's Air Quality, Energy & Sustainability Program (including its Office of EE and RE), as well as NJ Transit, which implements many energy efficiency projects, such as the installation of energy-efficient lighting and energy-efficient switch heaters, as well as the development and implementation of a demand response pilot program. Board Staff submits that adequately funding such a multi-agency approach to supporting EE and RE is an appropriate allocation and use of SBC funds. Board Staff notes that the amount of funding appropriated to SEI and to NJCEP is set by appropriations legislation, which legislation the Board is legally bound to follow.

Comment: MaGrann suggested that the Board should set four-year funding amounts for each individual NJCEP program, not just for NJCEP in general and for SEI as was proposed in the Straw Proposal. Implementing MaGrann's suggestion would provide for the predictability needed for potential participants to make the large investments necessary for long-term projects such as new construction. NFCRC recommends the adoption of protocols that would allow funding to be shifted among programs as needed during each four-year funding cycle.

Response: Board Staff respectfully submits that the Straw Proposal's approach sets the optimum balance between the predictability necessary for investment and the flexibility necessary for reacting to changing technology and market conditions. Further, as previously mentioned, the RE Laws will substantially alter the EE marketplace, making it difficult to establish long-term program plans prior to resolution of the many issues that those laws will place before the Board over the next year. Responding to NFCRC's recommendation, Board Staff notes that funding in fact is not allocated to individual NJCEP programs for a four-year cycle and that, at any rate, the Board historically has been supportive of and willing to approve revisions to NJCEP budgets as technology, market conditions, or program participation rates change over time.

Comment: NJBIA supported the funding for the C&I EE programs. CINS suggested that funding should be reallocated from C&I to Residential EE because doing so would decrease CO_2

emissions. SJG supported the funding for CP. The Solar Coalition recommended that significantly more funding be allocated to low-income community solar, rooftop solar, and other clean energy initiatives. MaGrann suggested that more funding and focus be provided to marketing to consumers, consistent with the Strategic Plan's recommendations. Rate Counsel recommended that funding for program evaluation should be increased and that more details should be provided about the evaluations to be conducted.

Response: Board Staff appreciates NJBIA's and SJG's support, and it respectfully submits that its proposed balance between the funding for C&I and Residential, including low-income Residential, programs, best serves the Board's objectives. That said, Board Staff is recommending the Board defer further consideration of the Strategic Plan while the various proceedings related to the 2018 RE Laws are conducted.

BOARD STAFF RECOMMENDATIONS

The Straw Proposal sets out in detail the rationale utilized by Board Staff in developing the Proposed FY19-22 Funding Levels. However, in light of the change in law affected by the RE Laws, and recognizing the RE Laws are likely to affect the Strategic Plan and the Funding Levels for FY20 and beyond, Board Staff is now recommending the Board defer any decision regarding: (i) Funding Levels for FY20 and beyond; and (ii) the Strategic Plan. That said, having reviewed and considered the comments regarding the Proposed FY19 Funding Level, Board Staff recommends the Board set, adopt, and approve the Proposed FY19 Funding Level and Proposed FY19 Utility Payments.

DISCUSSION AND FINDINGS

The Straw Proposal recognizes the value of energy efficiency as a foundational energy resource that, when delivered cost-effectively, reduces the cost of energy for all ratepayers, while providing additional benefits, including health and safety benefits associated with improved air quality, lower environmental compliance costs, increased grid reliability, and increased economic development opportunities in the form of jobs in construction and a business environment that should allow New Jersey businesses to compete more effectively with out-of-state businesses. It will help New Jersey re-establish itself as a national leader in clean energy programs.

Consistent with the Board's contract with its Program Administrator, Board Staff coordinated with the Program Administrator regarding the Straw Proposal. Further, Board Staff, in conjunction with the Program Administrator, discussed the Straw Proposal including the Proposed FY19 funding level at a public hearing and at public meetings of the EE and RE Stakeholder Groups, all to receive comments and input. Finally, the Straw Proposal including the FY19 funding schedule, was circulated to the EE and RE listservs, it was posted on the NJCEP web site, and written comments were solicited from stakeholders and the public. Accordingly, the Board **HEREBY FINDS** the process utilized in developing the Proposed FY19 Funding Level set forth therein, was appropriate and provided stakeholders and interested members of the public adequate notice and opportunity to comment on it.

The Board has reviewed the Straw Proposal, including, without limit, the Proposed FY19 Funding Level set forth therein, and Board Staff's recommendations regarding same. The Board agrees with the Straw Proposal's rationale supporting the proposed FY19 funding level and agrees with and accepts Board Staff's recommendations. The Board **HEREBY FINDS** the

Proposed FY19 Funding Level, will benefit customers and is consistent with the EMP goal of reducing energy usage and associated emissions, will provide environmental benefits beyond those provided by standard offer or similar programs, and is otherwise appropriate. Therefore, the Board **HEREBY APPROVES** the Straw Proposal's Proposed FY19 Funding Level. For the avoidance of doubt, the Board is not approving Funding Levels for FY20 or beyond, nor is it approving the Straw Proposal and attached draft Strategic Plan that was included in the Straw Proposal; instead, the Board is deferring action on Funding Levels for FY20 or beyond and on the draft Strategic Plan.

The Board has reviewed Board Staff's recommendation for allocating the funding to the state's electric and natural gas utilities. The Board **HEREBY FINDS** that the recommended allocation of the FY19 funding to electric and natural gas utilities is reasonable and consistent with the methodology approved by the Board in its 2008 CRA III Order. Based on the above, the Board **HEREBY APPROVES** the Proposed FY19 Utility Payments (as approved, the FY19 Utility Payments).

The FY19 Utility Payments shall be made consistent with the Board's existing policies and procedures, including, without limit, the utilities' deduction of monthly Comfort Partners Program costs from the stated FY19 Utility Payments amounts. The Board also **HEREBY AUTHORIZES** the utilities to continue utilizing deferred accounting, through the SBC, for NJCEP revenues and expenses as set out in previous Orders of the Board. The Board will, as appropriate, consider rate making issues in the context of specific utility rate filings with the Board.

The Board notes that, on or about May 11, 2018, Board Staff, circulated its proposed FY19 programs and budgets and that those programs and budgets are addressed in a separate Order.

This Order shall be effective on July 1, 2018.

DATED: 6\22\18

BOARD OF PUBLIC UTILITIES
BY:

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PRESIDENT

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

UPENDRA J CHIVUKULA
COMMISSIONER

ROBERT M. GORDON
COMMISSIONER

ATTEST:

AIDA CAMACHO-WELCH
SECRETARY

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

IN THE MATTER OF COMPREHENSIVE ENERGY EFFICIENCY AND RENEWABLE ENERGY RESOURCE ANALYSIS FOR THE FISCAL YEARS 2019 - **2022** CLEAN ENERGY PROGRAM
DOCKET NO. QO18040392

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