



Agenda Date: 9/14/21
Agenda Item: 8E

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY AND ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u>)	ORDER DIRECTING BUTLER
2018, <u>c.</u> 17 REGARDING THE ESTABLISHMENT OF)	ELECTRIC COMPANY TO
ENERGY EFFICIENCY AND PEAK DEMAND)	ESTABLISH ENERGY
REDUCTION PROGRAMS)	EFFICIENCY AND PEAK
)	DEMAND REDUCTION
BUTLER ELECTRIC)	PROGRAMS
)	
)	DOCKET NO. QO19010040
)	
)	DOCKET NO. QO20100684

Parties of Record:

Brian O. Lipman, Esq., Acting Director, New Jersey Division of Rate Counsel
Robert H. Oostdyk, Jr., Esq., Murphy McKeon P.C., on behalf of Butler Electric Company

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) provides an extension for Butler Electric Company (“Butler Electric”) to establish energy efficiency (“EE”) and peak demand reduction (“PDR”) programs pursuant to the EE provisions of the Clean Energy Act of 2018.

INTRODUCTION

On May 23, 2018, Governor Murphy signed into law the Clean Energy Act of 2018 (“CEA” or the “Act”).¹ 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 the 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.

¹ L. 2018, c. 17 (N.J.S.A. 48:3-87.8 et seq.).

The CEA emphasizes the importance of EE and 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.² 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 BPU 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.³

The CEA also notes in the same section of the Act that the Board may mandate reductions that exceed 2% of the average annual usage for electricity and 0.75% of the average annual usage for natural gas for the prior three years, pursuant to a market potential study until the reduction in energy usage reaches the full economic, cost-effective potential in each service territory, as determined by the Board.⁴

The Act further required the Board to adopt quantitative performance indicators ("QPIs") to establish utility targets for energy usage reduction and peak demand reduction.⁵ The Act required the Board to establish a stakeholder process to evaluate the economically achievable EE and PDR requirements, rate adjustments, QPIs, and the process for evaluating, measuring, and verifying energy usage reductions and peak demand reductions by the public utilities.⁶

BACKGROUND

Butler Electric is a municipal electric utility in Morris County that is owned and operated by the Borough of Butler and that serves residential and commercial customers in the Boroughs of Butler, Bloomingdale, and Kinnelon and that partially services the Township of West Milford and the Borough of Riverdale. Butler is a member of a group of municipal electric companies called the Public Power of Association of New Jersey, with energy purchases governed by the procedures described at N.J.S.A. 40A:11-5(6).

PROCEDURAL HISTORY

Pursuant to the CEA at N.J.S.A. 48:3-87.9(b), on December 18, 2018, the Board authorized the Division of Clean Energy to enter into a contract with Optimal Energy, Inc. ("Optimal") to perform

² New Jersey's electric and gas public utilities include Atlantic City Electric Company ("ACE"), Butler, Elizabethtown Gas Company ("Elizabethtown"), Jersey Central Power & Light Company ("JCP&L"), New Jersey Natural Gas Company ("NJNG"), Public Service Electric and Gas Company ("PSE&G"), Rockland Electric Company ("RECO"), and South Jersey Gas Company ("SJG") (collectively, "Utilities").

³ N.J.S.A. 48:3-87.9(a).

⁴ The Act required the Board to complete a study to determine energy savings targets for each utility to achieve the full economic, cost effective potential for energy usage reductions and the timeframe to achieve those reductions. N.J.S.A. 48:3-87.9(b).

⁵ N.J.S.A. 48:3-87.9(c).

⁶ N.J.S.A. 48:3-87.9(f)(1).

a study to determine the potential for EE and PDR for each utility in the state and to develop preliminary energy savings targets and QPIs for electricity and natural gas usage reduction, known as the *Energy Efficiency Potential in New Jersey* study (“EE Potential Study”).⁷

On May 28, 2019, following four stakeholder meetings regarding the EE Potential Study, the Board adopted the energy savings targets and QPIs as preliminary.⁸

On October 7, 2019, the Board directed the utilities to develop a joint request for proposals (“RFP”) to procure a consultant to perform the demographic analysis required by the Act at N.J.S.A. 48:3-87.9(f)(2).⁹ The Board adopted Staff’s recommendations regarding the study process and minimum technical requirements of the RFP. The purpose of the analysis was to determine if all utility customers are able to participate fully in implementing EE measures, identify market barriers that prevent such participation, and make recommendations for measures to overcome such barriers. On May 1, 2020, in accordance with the Board’s October 7, 2019 Order, the Utilities submitted the report and microdata set resulting from the demographic analysis to the Board Secretary, the New Jersey Division of Rate Counsel (“Rate Counsel”), and the Energy Efficiency Advisory Group.

Following an extensive stakeholder process, Staff released an “Energy Efficiency Transition Straw Proposal” on March 20, 2020. On May 4, 2020, Staff hosted a public meeting on equity in EE consisting of two panel sessions and a presentation on the results of the demographic analysis and accepted written comments through May 15, 2020.¹⁰

By Order dated June 10, 2020, the Board approved an EE transition framework for EE programs implemented pursuant to the CEA, including requirements for the Utilities to establish programs that reduce the use of electricity and natural gas within their territories (“June 2020 Order”).¹¹ In the June 2020 Order, the Board directed ACE, ETG, JCP&L, NJNG, PSE&G, RECO, and SJG to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation beginning July 1, 2021.

In developing this framework, Staff considered the size of Butler Electric relative to the investor-owned electric and gas public utilities, as well as the fact that the EE Potential Study did not consider preliminary QPIs for Butler Electric. Staff recommended that the Board not require Butler Electric to file EE and PDR program petitions at the same scale, along the same timeline, and according to the same requirements as applicable to the other public utilities. Staff also noted that customers throughout New Jersey, including within Butler’s service territory, should have

⁷ In re Approval of Contract for Energy Efficiency Technologies Research and Studies, BPU Docket No. QO18121302, Order dated December 18, 2018; this study did not include Butler.

⁸ In re the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and Energy Usage Reduction Targets and Quantitative Performance Indicators, BPU Docket Nos. QO19010040 and QO19050536, Order dated May 28, 2019 (Agenda Item 8C).

⁹ In re the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and In re the Clean Energy Act of 2018 – Utility Demographic Analysis, BPU Docket Nos. QO19010040 and QO19060748 (Agenda Item 8B).

¹⁰ Public Notice:
<https://www.nj.gov/bpu/pdf/publicnotice/Equity%20Working%20Group%20Meeting%20Public%20Notice.pdf>.

¹¹ In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020.

access to a full suite of EE program offerings and recommended consideration of partnerships which would provide Butler Electric customers equitable access while limiting the administrative burden for Butler Electric. The Board accepted Staff's recommendations and directed Staff to return with recommendations specific to Butler Electric by December 31, 2020.

On December 16, 2020, Staff provided recommendations to the Board that Butler Electric work collaboratively with Staff, Rate Counsel, and the investor-owned electric and gas public utilities, as applicable, to develop a proposal to deliver EE and PDR programs to Butler Electric customers that would be compliant with the CEA and consistent with the requirements for Utility programs as outlined in the June 2020 Order. Staff further recommended that Butler Electric submit a proposal by October 1, 2021 that included a plan to implement programs from July 1, 2022 through June 30, 2024, to align with the current three-year program cycle of utility-administered EE programs. Staff suggested that elements of the program filing could include proposed interim energy reduction targets, proposed programs that are consistent with the other utility-led EE programs statewide, and any variations from the other utility-led programs statewide based on circumstances that are specific to Butler Electric. In developing the proposal, Staff recommended that Butler Electric should explore with Staff, Rate Counsel, and the other Utilities options for funding these programs, pursuant to N.J.S.A. 48:3-87.9(e)(1).¹² Staff further recommended that, if the proposal included partnership with another Utility, such as PSE&G, which is the sole provider of gas in Butler Electric's service territory, Butler Electric should propose an approach to allocating costs and energy savings attributable to the programs, which could be consistent with the approach that the Utilities are taking to coordinate delivery of EE and PDR programs in overlapping service territories. Staff also recommended that Butler should address provision of EE and PDR programs to Butler Electric customers who are not PSE&G customers. The Board approved Staff's recommendations on December 16, 2020.

STAFF RECOMMENDATIONS

For the past several months, Butler Electric has been discussing alternative approaches to implementing EE programs in its territory with Staff, Rate Counsel, and PSE&G.

At the same time, following the transition of administration of certain EE programs from NJCEP to the Utilities on July 1, 2021, the investor-owned utilities are currently discussing with Staff and Rate Counsel how the investor-owned utilities will use their Board-approved budgets to implement dual-fuel projects in overlapping utility territories during the current three-year program cycle. Staff anticipates that a shared budgets approach, if finalized, could enable customers served by both Butler Electric and PSE&G to participate in EE programs during the current program cycle.

Staff recommends that the Board direct Butler Electric and Staff to continue to collaborate with Rate Counsel, PSE&G, and the other investor-owned utilities to jointly work toward developing a shared budgets approach and that the Board grant an extension to Butler Electric to submit an EE program proposal as soon as reasonably feasible following resolution of an approach that would work for Butler Electric, should a resolution be reached, including Board approval, but no

¹² N.J.S.A. 48:3-87.9(e)(1) provides that "Each electric public utility and gas public utility shall file annually with the board a petition to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency programs and peak demand reduction programs required pursuant to this section, including but not limited to recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules, which shall be determined by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1)."

later than October 1, 2022. This proposal shall apply to the time remaining in the current EE program cycle (July 1, 2021 – June 30, 2024) and could take the form of a joint petition by Butler Electric and PSE&G.

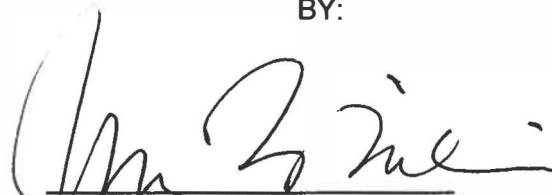
DISCUSSION AND FINDINGS

In its June 2020 Order, the Board adopted a framework for the next generation of EE programs through which the State and Utilities will be held to the same standards of accountability and transparency, wherever feasible. While recognizing that there are significant differences between Butler Electric and the investor-owned electric and gas utility companies, the Board intended for the program structure outlined in the June 2020 Order to result in coordinated, consistent delivery of programs that are available throughout the state. The Board therefore **HEREBY DIRECTS** Staff and Butler Electric to continue to collaborate with Rate Counsel and the investor-owned electric and gas public utilities, as applicable, to develop a proposal to deliver EE and PDR programs to Butler Electric customers that is compliant with the CEA and consistent with the requirements for utility programs as outlined in the June 2020 Order, to the extent reasonably achievable. The Board therefore **DIRECTS** Butler Electric to file a program petition by no later than October 1, 2022 for approval by the Board.

The effective date of this order is September 21, 2021.


DATED: September 14, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

UPENDRA J. CHIVUKULA
COMMISSIONER

ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF THE IMPLEMENTATION OF L. 2018, C. 17 REGARDING THE
ESTABLISHMENT OF ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION
PROGRAMS – BUTLER ELECTRIC, DOCKET NOS. QO19010040 & QO20100684**

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