



Agenda Date: 11/17/21
Agenda Item: 2L

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/

ENERGY

IN THE MATTER OF THE PETITION OF)
ELIZABETHTOWN GAS COMPANY TO REVISE) DECISION AND ORDER APPROVING
THE REMEDIATION ADJUSTMENT CLAUSE) STIPULATION FOR PROVISIONAL
COMPONENT OF ITS SOCIETAL BENEFITS) RATES
CHARGE RATE) DOCKET NO. GR21071018

Parties of Record:

Deborah M. Franco, Esq., SJI Utilities on behalf of Elizabethtown Gas Company
Brian O. Lipman, Esq., Director, on behalf of New Jersey Division of Rate Counsel

BY THE BOARD:

On July 30, 2021, Elizabethtown Gas Company ("Elizabethtown" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") seeking review and approval of the Company's Manufactured Gas Plant ("MGP") Remediation Adjustment Clause ("RAC") activities costs incurred between July 1, 2020 and June 30, 2021 ("2021 RAC Period"), plus prior period true-up amounts ("2021 RAC Petition"). By this Order, the Board considers a stipulation of settlement ("Stipulation") executed by Elizabethtown, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively, "Parties") requesting that the Board approve changes in the RAC rate on a provisional basis, subject to refund with interest.

BACKGROUND

The Societal Benefits Charge ("SBC") was created through the Electric Discount and Energy Competition Act. Elizabethtown's SBC is comprised of a number of components: the RAC, New Jersey Clean Energy Program ("NJCEP"), Universal Service Fund ("USF"), and Lifeline Program charges. The RAC allows the Company to adjust its rates to recover reasonably incurred environmental remediation costs associated with the clean-up of its former MGP sites, on a deferred basis, over a rolling seven (7) year period, with carrying charges tied to the seven (7) year treasuries plus 60 basis points.

ETG has six (6) former MGP sites in New Jersey, with two sites (2) located in Elizabeth, one (1) in Rahway, one (1) in Perth Amboy, one (1) in Flemington, and one (1) in Newton. The Company owns and has liability for remediation at the MGP sites in Elizabeth, Newton and Flemington. The Company shares the liability for the remediation of the Newton and Flemington MGP sites with Jersey Central Power & Light Company, which is currently owned by First Energy. Elizabethtown does not own the MGP site at the historic Renora Landfill but maintains responsible party liability. The MGP site in Rahway was remediated and sold.

2021 RAC PETITION¹

The Company's 2021 RAC Petition sought RAC related costs for former MGP sites incurred during the period July 1, 2014 through June 30, 2021, based upon a seven (7) year cost amortization, in addition to specific adjustments and prior period true-up amounts. The 2021 RAC Period cost totaled \$11,137,686 from which \$6,807,500 was deducted for third party recoveries, and a net of \$21,125 for the deferral of 50% of litigation costs were deducted. The proposed net remediation cost of (\$4,309,061) would be recovered over the seven (7) year amortization period. With respect to the Flemington and Newton sites, the 2021 RAC Petition only sought recovery of costs attributable to Elizabethtown.²

In accordance with the Company's tariff, the proposed SBC-RAC rate was determined by calculating the sum of the following: (a) one-seventh (1/7) of the Company's net deferred remediation costs incurred over 12 months ending June 30th for the periods 2015 through 2021 totaling (\$1,485,378), which equals amortized costs plus the deferred tax adjustment; (b) the \$84,428 interest accrued on RAC related costs calculated in the manner approved by the Board in BPU Docket Nos. GX99030121 and GO99030122 dated March 30, 2001; and (c) the prior year's RAC over recovery balance of (\$2,538,371). The sum of these amounts total to a refund of \$3,939,321, which was divided by projected sales and service volumes from October 1, 2021 through September 30, 2022.

The Company proposed to decrease the per therm SBC-RAC credit rate from \$0.0082 to a credit rate of \$0.0083, effective October 1, 2021.³ The proposed rate was designed to provide a refund of \$3,939,321 in RAC related costs over a 12 month period. As the 2021 RAC Petition did not request any increase in charges to customers, public hearings were not required or held.

STIPULATION

Following an initial review and discussion, the Parties determined that additional time is needed to complete a review of the 2021 RAC Petition. Accordingly, the Parties executed the Stipulation, which provides, in part, as follows:⁴

¹ The 2021 RAC Petition did not seek any adjustment to the other SBC rate components, i.e. the NJCEP, USF and Lifeline charges.

² Recovery costs for the Flemington and Newton sites are shared between JCP&L and Elizabethtown on a sixty percent (60%)/forty percent (40%) basis, respectively, in accordance with a Memorandum of Understanding between Elizabethtown and JCP&L dated February 23, 1993.

³ All rates herein include Sales and Use Tax.

⁴ Although summarized in this Order, the detailed terms of the Stipulation are controlling, subject to the findings and conclusions of this Order. Paragraphs are lettered to coincide with the Stipulation.

10. The Parties hereby stipulate and agree that, pending the conclusion of any further review, including at the Office of Administrative Law (“OAL”), if necessary, discussions among the Parties, and a final determination by the Board, and pursuant to N.J.S.A. 48:2-21.1, it would be both reasonable and in the public interest for the Board to authorize Elizabethtown to implement: (1) a provisional RAC credit rate of \$0.0083 per therm, inclusive of applicable taxes, to be effective as of December 1, 2021. Based upon rates in effect on October 1, 2021, the monthly bill of a residential customer using 100 therms will decrease by \$1.65 from \$104.15 to \$102.50, or a decrease of 1.6%. There will be an opportunity for full review of the RAC credit rate at the OAL, if necessary, and final approval by the Board.
11. The Company will submit tariff sheets, in the form attached to the Stipulation as Appendix A, within five (5) days of the effective date of the Board’s Order, should the Board approve the Stipulation.

DISCUSSION AND FINDING

The Board, having carefully reviewed the record to date in this proceeding, including the 2021 RAC Petition and the attached Stipulation, **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Stipulation in its entirety, and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein, subject to any terms and conditions set forth in this Order.

The Board **HEREBY APPROVES** on a provisional basis, subject to refund with interest, an SBC-RAC credit rate of \$0.0083 per therm effective for services rendered on and after December 1, 2021.

Based upon the Stipulation, a typical residential heating customer using 100 therms on a monthly basis would see a decrease in their bill of \$1.65 or 1.6%.

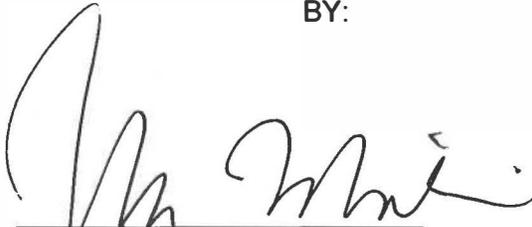
The Board **HEREBY DIRECTS** ETG to file revised tariff sheets conforming to the terms of the Stipulation prior to December 1, 2021.

The Company’s costs, including those related to the RAC, will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any such audit.

This Order shall be effective on November 24, 2021.

DATED: November 17, 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 PETITION OF ELIZABETHTOWN GAS COMPANY TO REVISE THE
REMEDATION ADJUSTMENT CLAUSE COMPONENT OF ITS SOCIETAL BENEFITS
CHARGE RATE

BPU DOCKET NO. GR21071018

SERVICE LIST

<p><u>Division of Rate Counsel</u> 140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Brian O. Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Maura Caroselli, Esq. mcaroselli@rpa.nj.gov</p> <p><u>Division of Law</u> 25 Market Street Post Office Box 12 Trenton, NJ 08625</p> <p>Michael Beck, DAG michael.beck@law.njoag.gov</p> <p>Terel Klein, DAG terel.klein@law.njoag.gov</p> <p>Pamela Owen, DAG pamela.owen@law.njoag.gov</p> <p>Daren Eppley, DAG daren.eppley@law.njoag.gov</p>	<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Board Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of Energy</u></p> <p>Paul Lupo, Acting Director paul.lupo@bpu.nj.gov</p> <p>Scott Sumliner scott.sumliner@bpu.nj.gov</p> <p><u>Counsel's Office</u> Heather Weisband, Esq. heather.weisband@bpu.nj.gov</p> <p><u>Elizabethtown Gas Company</u> 520 Green Lane Union, NJ 07083</p> <p>Thomas Kaufman tkaufmann@sjindustries.com</p> <p>Deborah Franco, Esq. dfranco@sjindustries.com</p> <p>Cindy Capozzoli ccapozzoli@sjindustries.com</p>
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520 Green Lane
Union, NJ 07083

T: (908) 662-8448
F: (908) 662-8496

dfranco@sjindustries.com

Deborah M. Franco, Esq.
VP/Rates, Regulatory & Sustainability

November 1, 2021

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In The Matter Of The Petition Of Elizabethtown Gas Company To Revise the Remediation Adjustment Clause Component of Its Societal Benefits Charge Rate
BPU Docket No. GR21071018**

Dear Secretary Camacho-Welch:

Enclosed for filing in the above-referenced proceeding is a Stipulation executed by representatives of Elizabethtown Gas Company, the Staff of the Board of Public Utilities and the Division of Rate Counsel. It is respectfully requested that the Board consider the Stipulation at its November 17, 2021 agenda meeting.

Please direct any inquiries to the undersigned. Thank you for your consideration.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Deborah M. Franco".

Deborah M. Franco

DMF:slp
Enclosures

cc: Service List (electronic only)

**IN THE MATTER OF THE PETITION OF ELIZABETHTOWN GAS COMPANY
TO REVISE THE REMEDIATION ADJUSTMENT CLAUSE COMPONENT
OF ITS SOCIETAL BENEFITS CHARGE RATE
BPU DOCKET NO. GR21071018**

SERVICE LIST

Steven Cook
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083
scook@sjindustries.com

Thomas Kaufmann
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083
tkaufmann@sjindustries.com

Susan Potanovich
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083
spotanovich@sjindustries.com

Gary Akmentins
Elizabethtown Gas Company
520 Green Lane
Union, NJ 07083
gakmentins@sjindustries.com

Deborah M. Franco, Esq.
SJI Utilities, Inc.
520 Green Lane
Union, NJ 07083
dfranco@sjindustries.com

Cindy Capozzoli
SJI Utilities, Inc.
One South Jersey Place
Atlantic City, NJ 08401
ccapozzoli@sjindustries.com

Sheree Kelly
SJI Utilities, Inc.
520 Green Lane
Union, NJ 07083
skelly@sjindustries.com

Carolyn A. Jacobs
SJI Utilities, Inc.
One South Jersey Place
Atlantic City, NJ 08401
cjacobs@sjindustries.com

Stacy Peterson
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Stacy.Peterson@bpu.nj.gov

Paul Lupo
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Paul.Lupo@bpu.nj.gov

Ryan Moran
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Ryan.Moran@bpu.nj.gov

Scott Sumliner
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Scott.Sumliner@bpu.nj.gov

Heather Weisband, Esq.
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
Heather.Weisband@bpu.nj.gov

Maura Caroselli, Esq.
Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
mcaroselli@rpa.nj.gov

Brian Lipman, Esq.
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
blipman@rpa.nj.gov

Terel Klein, DAG
Dept. of Law & Public Safety
Richard J. Hughes Justice Complex
Public Utilities Section
25 Market Street, P.O. Box 112
Trenton, NJ 08625
Terel.Klein@law.njoag.gov

Pamela Owen, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Pamela.Owen@law.njoag.gov

David Peterson
**Chesapeake Regulatory Consultants,
Inc.**
1815 Fenwicke Ct.
Huntingtown, MD 20639
davep@chesapeake.net

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

-----X
: **BPU Docket No. GR21071018**
: **STIPULATION REGARDING**
: **PROVISIONAL RAC RATES**
----- X

APPEARANCES:

Deborah M. Franco, Esq., Vice President, Rates, Regulatory and Sustainability, SJI Utilities, Inc. for Petitioner, Elizabethtown Gas Company

Maura Caroselli, Esq., Managing Attorney Gas and Clean Energy, Division of Rate Counsel, (**Brian O. Lipman, Esq.**, Acting Director)

Terel Klein, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (**Andrew J. Bruck**, Acting Attorney General of the State of New Jersey)

TO THE HONORABLE COMMISSIONERS OF THE BOARD OF PUBLIC UTILITIES:

I. PROCEDURAL HISTORY

1. On July 30, 2021, Elizabethtown Gas Company (“Elizabethtown” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board” or “BPU”) in BPU Docket No. GR21071018 to revise the Remediation Adjustment Clause (“RAC”) component of its Societal Benefits Charge (“SBC”) rate (“2021 RAC Petition”).

2. The 2021 RAC Petition proposed to decrease the Company’s per therm RAC rate from \$0.0082 to a credit rate of \$0.0083, inclusive of applicable taxes.¹ The proposed RAC credit

¹ The Company’s rate of \$0.0082 per therm was approved in a March 24, 2021 Board Order in BPU Docket No. GR20070502, effective on April 1, 2021.

rate was designed to refund approximately \$3.9 million in RAC-related costs over a 12-month period.

3. The RAC-related costs for which recovery was sought in the 2021 RAC Petition were the costs to test, contain and remediate the Company's former manufactured gas plant sites (described below) incurred during the period July 1, 2014 through June 30, 2021, based upon a seven-year cost amortization, plus certain adjustments and prior period true-up amounts. Based upon the 2021 RAC Petition, the 2021 costs totaled \$11,137,686, which was then adjusted for third party recoveries and deferred litigation insurance costs, resulting in proposed recoverable net remediation costs of \$4,309,061 that are amortized in rates over a seven-year period.

4. In accordance with the Company's tariff, the Company's proposed RAC credit rate was determined by calculating the sum of: (i) one-seventh of its net deferred remediation amounts incurred during the 12 months ending June 30th for the periods ending 2021, 2020, 2019, 2018, 2017, 2016 and 2015, totaling (\$1,485,378) as shown below, which equals amortized costs plus the deferred tax adjustment; (ii) \$84,428 of interest accrued on RAC-related costs calculated in the manner approved by the Board's Order in BPU Docket Nos. GX99030121 and GO99030122 dated March 30, 2001; and (iii) the prior year's RAC over recovered balance of (\$2,538,371). The sum of these amounts, total (\$3,939,321), which was divided by the projected sales and service volumes to the service classifications subject to the RAC in order to yield the proposed RAC credit rate of \$0.0083 per therm, inclusive of all applicable taxes, as shown on Appendix A.

<u>Year</u>	<u>Recoverable Amount</u>
2021	\$602,256
2020	(\$637,920)
2019	(\$470,961)
2018	\$3,809,418
2017	\$ 2,215,454
2016	(\$3,295,492)
2015	<u>(\$3,708,133)</u>
Total	(\$1,485,378)

5. The Company has six (6) former manufactured gas plant sites in New Jersey: two (2) are located in Elizabeth, one (1) on South Street, and one (1) on Erie Street, one (1) in Rahway, one (1) in Perth Amboy, one (1) in Flemington, and one (1) in Newton. The Erie Street, South Street, Rahway and Perth Amboy sites were owned and/or operated exclusively by Elizabethtown and/or its predecessor companies. Flemington and Newton were also owned by a predecessor of Jersey Central Power & Light Company (“JCP&L”) which is now owned by First Energy. With respect to the Flemington and Newton sites, the 2021 RAC Petition only sought recovery of costs attributable to Elizabethtown.² Elizabethtown also has responsible party liability for a site containing the Renora Landfill.

6. The 2021 RAC Petition did not propose to adjust the New Jersey Clean Energy Program (“CEP”), Universal Service Fund (“USF”) and Lifeline rate components of the SBC, both of which are addressed in separate proceedings.

² Recovery costs for the Flemington and Newton sites are shared between JCP&L and Elizabethtown on a 60%/40% basis, respectively, in accordance with the Memorandum of Understanding between Elizabethtown and JCP&L dated February 23, 1993.

7. As stated in the 2021 RAC Petition, the impact of the proposed reduction to the RAC rate would decrease the monthly bill of a residential customer using 100 therms by \$1.65, from \$99.58 to \$97.93, or a decrease of 1.7%, as compared to the rates in effect as of July 1, 2021.

8. The 2021 RAC Petition was not transmitted to the Office of Administrative Law (“OAL”) by the Board. Public hearings were not required as the Company proposed a rate decrease.

II. STIPULATED TERMS

9. Elizabethtown, Board Staff, and the New Jersey Division of Rate Counsel are the only parties to this proceeding (collectively, “Parties”). The Parties agree that additional time is needed to complete a comprehensive review of the Company’s filing and that permitting a RAC credit rate of \$0.0083 per therm inclusive of applicable taxes, to become effective on a provisional basis, is reasonable to permit Elizabethtown timely rate changes for RAC and mitigate the impact of potential excess balances as additional review of the Company’s filing takes place.

10. The Parties hereby stipulate and agree that, pending the conclusion of any further review, including at the OAL, if necessary, discussions among the Parties, and a final determination by the Board, and pursuant to N.J.S.A. 48:2-21.1, it would be both reasonable and in the public interest for the Board to authorize Elizabethtown to implement: (1) a provisional RAC credit rate of \$0.0083 per therm, inclusive of applicable taxes, to be effective as of December 1, 2021. Based upon rates in effect on October 1, 2021, the monthly bill of a residential customer using 100 therms will decrease by \$1.65 from \$104.15 to \$102.50, or a decrease of 1.6%. There will be an opportunity for full review of the RAC credit rate at the OAL, if necessary, and final approval by the Board.

11. The Company will submit tariff sheets, in the form attached as Appendix A, within five (5) days of the effective date of the Board's Order, should the Board approve this Stipulation.

12. This Stipulation represents a mutual balancing of interests and therefore is intended to be accepted and approved in its entirety. If the Board does not adopt this Stipulation in its entirety in an Order, then any Party hereto is free to pursue its then available legal remedies with respect to all issues in this Stipulation as though this Stipulation had not been signed.

13. It is the intent of the Parties that the provisions hereof be approved by the Board, as appropriate, as being in the public interest. The Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

14. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein.

15. The Parties further acknowledge that, should a Board Order be entered approving this Stipulation, this Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

WHEREFORE, the Parties hereto do respectfully submit this Stipulation to the Board and request the Board to issue a Decision and Order approving this Stipulation in its entirety in accordance with the terms hereof, as soon as reasonably possible.

ELIZABETHTOWN GAS COMPANY

**BRIAN O. LIPMAN
ACTING DIRECTOR, DIVISION OF
RATE COUNSEL**



By: _____
**Deborah M. Franco
Vice President, Rates, Regulatory
Energy
and Sustainability**

By: **Maura Caroselli 10/29/21**
**Maura Caroselli, Esq.
Managing Attorney Gas and Clean**

**ANDREW J. BRUCK
ACTING ATTORNEY GENERAL OF THE STATE OF NEW JERSEY
Attorney for the Staff of the New Jersey Board of Public Utilities**



By: _____
**Terel Klein
Deputy Attorney General**

Dated: October 28, 2021

GR21071018 – ETG 2021 RAC

RIDER "D"

SOCIETAL BENEFITS CHARGE ("SBC")

Applicable to all tariff Service Classifications except those Customers under special contracts that explicitly do not permit the Company to apply increased charges as filed and approved by the BPU and those customers exempted pursuant to the Long-Term Capacity Agreement Pilot Program ("LCAPP"), P.L. 2011, c.9, codified as N.J.S.A. 48:3-60.1. See the LCAPP Exemption Procedures at the end of this Rider.

The SBC is designed to recover the components listed below and any other new programs which the Board determines should be recovered through the Societal Benefits Charge.

<u>SBC Rate Components:</u>	<u>Per Therm</u>
I. New Jersey Clean Energy Program ("CEP")	\$0.0276
II. Remediation Adjustment Charge ("RAC")	\$0.0082 <u>(\$0.0083)</u>
III. <u>Universal Service Fund and Lifeline:</u>	
1. Universal Service Fund ("USF")	\$0.0133
2. Lifeline	<u>\$0.0057</u>
TOTAL	\$0.0548 <u>0383</u>

The charges applicable under this Rider include provision for the New Jersey Sales and Use Tax, and when billed to customers exempt from this tax shall be reduced by the amount of such tax included therein.

I. New Jersey Clean Energy Program Component ("CEP")

The Comprehensive Resource Analysis ("CRA") name was changed to the Clean Energy Program - CEP per Board Order dated January 22, 2003 in Docket No. EX99050347 *et.al*. The CEP is a mechanism that will (1) establish a rate to recover the costs of the Core and Standard Offer Programs in the Company's CEP Plan which was approved by the BPU in Docket No. GE92020104, and (2) compensate the Company for the revenue erosion resulting from conservation savings created by the Standard Offer Program. The annual recovery period for the CEP is from October 1 through September 30. The CEP recovers program costs and revenue erosion incurred during the previous CEP year ended June 30.

1. CEP program costs include the costs of core programs, standard offer payments and any administrative costs not recovered directly from standard offer providers.

Date of Issue: ~~September 22, 2021~~

Effective: Service Rendered
on and after ~~October 1, 2021~~

Issued by: Christie McMullen, President
520 Green Lane
Union, New Jersey 07083

Filed Pursuant to Order of the Board of Public Utilities

Dated ~~September 14, 2021~~ in Docket Nos. ~~GR21071007 and ER21060939~~

CLEAN

RIDER "D"

SOCIETAL BENEFITS CHARGE ("SBC")

Applicable to all tariff Service Classifications except those Customers under special contracts that explicitly do not permit the Company to apply increased charges as filed and approved by the BPU and those customers exempted pursuant to the Long-Term Capacity Agreement Pilot Program ("LCAPP"), P.L. 2011, c.9, codified as N.J.S.A. 48:3-60.1. See the LCAPP Exemption Procedures at the end of this Rider.

The SBC is designed to recover the components listed below and any other new programs which the Board determines should be recovered through the Societal Benefits Charge.

<u>SBC Rate Components:</u>		<u>Per Therm</u>
I.	New Jersey Clean Energy Program ("CEP")	\$0.0276
II.	Remediation Adjustment Charge ("RAC")	(\$0.0083)
III.	<u>Universal Service Fund and Lifeline:</u>	
	1. Universal Service Fund ("USF")	\$0.0133
	2. Lifeline	<u>\$0.0057</u>
	TOTAL	<u>\$0.0383</u>

The charges applicable under this Rider include provision for the New Jersey Sales and Use Tax, and when billed to customers exempt from this tax shall be reduced by the amount of such tax included therein.

I. New Jersey Clean Energy Program Component ("CEP")

The Comprehensive Resource Analysis ("CRA") name was changed to the Clean Energy Program - CEP per Board Order dated January 22, 2003 in Docket No. EX99050347 *et.al*. The CEP is a mechanism that will (1) establish a rate to recover the costs of the Core and Standard Offer Programs in the Company's CEP Plan which was approved by the BPU" in Docket No. GE92020104, and (2) compensate the Company for the revenue erosion resulting from conservation savings created by the Standard Offer Program. The annual recovery period for the CEP is from October 1 through September 30. The CEP recovers program costs and revenue erosion incurred during the previous CEP year ended June 30.

1. CEP program costs include the costs of core programs, standard offer payments and any administrative costs not recovered directly from standard offer providers.

Date of Issue:

Effective: Service Rendered
on and after

Issued by: Christie McMullen, President
520 Green Lane
Union, New Jersey 07083

Filed Pursuant to Order of the Board of Public Utilities
Dated in Docket No.