



Agenda Date: 10/12/22
Agenda Item: 8E

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

ENERGY AND
CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u> 2018,)	ORDER
<u>C.</u> 17 REGARDING THE ESTABLISHMENT OF ENERGY)	
EFFICIENCY AND PEAK DEMAND REDUCTION)	DOCKET NO. QO19010040
PROGRAMS)	
)	
IN THE MATTER OF BUTLER POWER AND LIGHT)	
COMPANY ESTABLISHING ENERGY EFFICIENCY AND)	DOCKET NO. QO20100684
PEAK DEMAND REDUCTION PROGRAMS)	

Parties of Record:

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

BY THE BOARD:

BACKGROUND

Butler Power and Light Company (“Butler Electric”) is a municipal electric utility in Morris County that is owned and operated by the Borough of Butler and serves residential and commercial customers in the Boroughs of Butler, Bloomingdale, and Kinnelon and partially services the Township of West Milford and the Borough of Riverdale.

PROCEDURAL HISTORY

Pursuant to the Clean Energy Act at N.J.S.A. 48:3-87.9(b) (“CEA”), on December 18, 2018, the New Jersey Board of Public Utilities (“Board or “BPU”) authorized the Division of Clean Energy to enter into a contract with Optimal Energy, Inc. to perform a study to determine the potential for energy efficiency (“EE”) and peak demand reduction (“PDR”) for each utility in the State and to develop preliminary energy savings targets and quantitative performance indicators (“QPIs”) for electricity and natural gas usage reduction, known as the *Energy Efficiency Potential in New Jersey* study (“EE Potential Study”).¹ On May 28, 2019, following four (4) stakeholder meetings regarding the EE Potential Study, the Board preliminarily adopted the energy savings targets and QPIs.²

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).³ The Board adopted Board Staff’s (“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 (2) panel sessions and a presentation on the results of the demographic analysis and accepted written comments through May 15, 2020.⁴

¹ In re Approval of Contract for Energy Efficiency Technologies Research and Studies, BPU Docket No.QO18121302, Order dated December 18, 2018. The EE Potential Study did not include Butler.

² 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).

³ 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, Order dated October 7, 2019 (Agenda Item 8B).

⁴ Public Notice:

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

By Order dated June 10, 2020, the Board approved an EE transition framework for EE programs implemented pursuant to the CEA,⁵ including requirements for the utilities to establish programs that reduce the use of electricity and natural gas within their territories.⁶ 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 access to a full suite of EE program offerings and recommended consideration of partnerships that 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).⁷ 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 consistent with the approach that the

⁵ L. 2018, c. 17 (N.J.S.A. 48:3-87.8 et al.).

⁶ 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 ("June 2020 Order"). The utilities are: Atlantic City Electric Company ("ACE"), Butler Electric, Elizabethtown Gas Company ("ETG"), 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").

⁷ 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)."

utilities are taking to coordinate delivery of EE and PDR programs in overlapping service territories. Staff also recommended that Butler address any provisions 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.

On September 14, 2021, Staff provided recommendations to the Board that Butler Electric and Staff 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 later than October 1, 2022. The Board approved Staff's recommendations on September 14, 2021.⁸

On November 8, 2021, ACE, ETG, JCP&L, NJNG, PSE&G, RECO, and SJG filed a joint letter petition with the Board requesting approval to implement a proposed joint utility solution to the budget constraints in overlapping utility service areas experienced during Triennium 1. On August 17, 2022, the Board approved a stipulation of settlement executed by the utilities, Rate Counsel, and Staff which resolved the utilities' requests related to the petition.⁹

STAFF RECOMMENDATIONS

Butler Electric continued to collaborate with Staff, Rate Counsel, and the applicable investor-owned electric and gas public utilities to develop a proposal to deliver EE and PDR programs to Butler Electric customers through June 30, 2024. On September 20, 2022, PSE&G submitted a petition to extend the timeframe for its approved Clean Energy Future - Energy Efficiency ("CEF-EE") program offerings through additional funding for the period from October 1, 2023 through June 30, 2024 and to offer PSE&G's electric CEF-EE programs to PSE&G gas customers who are also Butler Electric customers.¹⁰ On September 29, 2022, Butler Electric submitted a request

⁸ In re the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs – Butler Electric, BPU Docket Nos. QO19010040 and QO20100684, Order dated September 14, 2021 ("September 2021 Order").

⁹ In re the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Petition of Atlantic City Electric Company for Approval of an Energy Efficiency Program, Cost Recovery Mechanism and Other Related Relief for Plan Years One Through Three; In re the Petition of Elizabethtown Gas Company for Approval of New Energy Efficiency Programs and the Associated Cost Recovery Mechanism Pursuant to the Clean Energy Act and the Establishment of a Conservation Incentive Program; In re the Verified Petition of Jersey Central Power & Light Company for Approval of JCP&L's Energy Efficiency and Conservation Plan Including Energy Efficiency and Peak Demand Reduction Programs (JCP&L EEC); In re the Petition of New Jersey Natural Gas Company for Approval of Energy Efficiency Program and the Associated Cost Recovery Mechanism Pursuant to the Clean Energy Act, N.J.S.A. 48:3-87.8 et seq. and 48:3-98.1 et seq.; In re the Petition of Public Service Electric and Gas Company for Approval of Its Clean Energy Future - Energy Efficiency ("CEF-EE") Program on a Regulated Basis; In re the Petition of Rockland Electric Company for Approval of Its Energy Efficiency Program and Peak Demand Reduction Programs; In re the Petition of South Jersey Gas Company for Approval of New Energy Efficiency Programs and the Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket Nos. QO19010040, EO20090621, GO20090619, EO20090620, GO20090622, GO18101112, EO18101113, EO20090623, & GO20090618, Order dated August 17, 2022.

¹⁰ In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Its Clean Energy Future – Energy Efficiency ("CEF-EE") Program on a Regulated Basis, BPU Docket Nos. GO18101112 and EO18101113.

requesting that the Board find that the PSE&G petition satisfies the Board's requirement that Butler Electric submit a proposal to deliver EE and PDR programs to Butler Electric customers for approval by the Board. Staff recommends that the Board approve Butler Electric's request.

DISCUSSION AND FINDINGS

In its September 2021 Order, the Board directed 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 also directed Butler Electric to file a program petition by no later than October 1, 2022 for approval.

The Board **HEREBY FINDS** that Butler Electric continued to collaborate with Staff, Rate Counsel, and the applicable investor-owned electric gas and public utilities to develop a proposal to deliver EE and PDR programs to Butler Electric customers as directed by the September 2021 Order. The Board **HEREBY FINDS** the petition filed by PSE&G on September 20, 2022 with respect to Butler Electric customers satisfies the Board's requirement that Butler Electric submit a proposal to deliver EE and PDR programs to Butler Electric customers for approval.

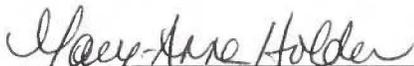
The effective date of this Order is October 19, 2022.

DATED: October 12, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



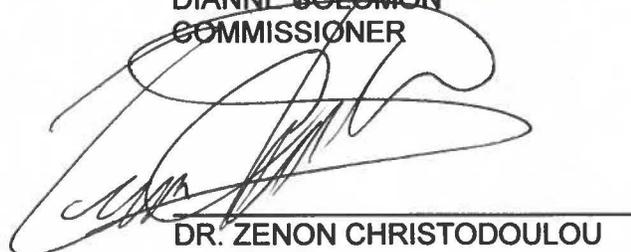
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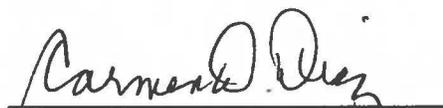


ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING 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 THE IMPLEMENTATION OF L. 2018, C. 17 REGARDING THE
ESTABLISHMENT OF ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION
PROGRAMS

IN THE MATTER OF BUTLER POWER AND LIGHT COMPANY ESTABLISHING ENERGY
EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS

DOCKET NOS. QO19010040 and QO20100684

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