



Agenda Date: 7/16/25
Agenda Item: 8F

STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY AND CLEAN ENERGY

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| IN THE MATTER OF THE IMPLEMENTATION OF |) | ORDER |
| P.L. 2018, C. 17, THE NEW JERSEY CLEAN |) | |
| ENERGY ACT OF 2018, REGARDING THE SECOND |) | |
| TRIENNIUM OF ENERGY EFFICIENCY AND PEAK |) | |
| DEMAND REDUCTION PROGRAMS |) | DOCKET NO. QO23030150 |

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Kaitlin Morrison, Esq., and **Maggie Broughton, Esq.**, Counsel for the New Jersey Progressive Equitable Energy Coalition, the Natural Resources Defense Council, and the Sierra Club

BY THE BOARD:

On October 30, 2024, the New Jersey Board of Public Utilities (“Board”) issued seven (7) Orders approving seven (7) stipulations of settlement (“Stipulations”).¹ Each of New Jersey’s seven (7) investor-owned electric and gas utilities executed a Stipulation with Board Staff (“Staff”), the New Jersey Division of Rate Counsel (“Rate Counsel”), the Energy Efficiency Alliance of New Jersey (“EEA-NJ”), and the New Jersey Large Energy Users’ Coalition (“NJLEUC”) (collectively, “Signatory Parties”).^{2,3} Among other commitments, each Energy Utility agreed to offer two (2) Public Sector Direct Install program pathways. This Order addresses the pathway that will employ a trade ally model for public entities subject to Local Public Contracts Law (“LPCL”) at N.J.S.A. 40A:11-4; Public School Contracts Law (“PSCL”) at N.J.S.A. 18A:18A-4; and County College Contracts Law (“CCCL”) at N.J.S.A. 18A:64A-25.3 and -25.4.⁴ To effectuate this program pathway, the Board now issues guidance to the Energy Utilities to implement Direct Install programs offered to public entities in conformance with the specifications set out herein.

¹ In re the Petition of New Jersey Natural Gas Company for Approval of New Energy-Efficiency, Building Decarbonization Start-Up, and Demand Response Programs 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. Second Triennium, BPU Docket No. QO23120868, Order dated October 30, 2024; In re the Petition of Elizabethtown Gas Company for Approval of Triennium 2 Clean Energy Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. QO23120869, Order dated October 30, 2024; In re the Petition of South Jersey Gas Company for Approval of Triennium 2 Clean Energy Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. QO23120870, Order dated October 30, 2024; In re the Petition of Atlantic City Electric Company for Approval of a Portfolio of Energy Efficiency, Building Decarbonization and Demand Response Programs, a Cost Recovery Mechanism, and Other Related Relief Pursuant to the Clean Energy Act for the Period January 2025 Through June 2027 (Triennium 2), BPU Docket No. QO23120871, Order dated October 30, 2024; In re the Verified Petition of Jersey Central Power & Light Company for Approval of JCP&L’s Second Energy Efficiency and Conservation Plan Including Energy Efficiency and Peak Demand Reduction Programs (“JCP&L EE&C Plan II Filing”), BPU Docket No. QO23120872, Order dated October 30, 2024; In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Energy Efficiency II (CEF-EE II) Program on a Regulated Basis, BPU Docket No. QO23120874, Order dated October 30, 2024; In re the Petition of Rockland Electric Company for Approval of its Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23120875, Order dated October 30, 2024 (collectively, “October 30, 2024 Orders”).

² Atlantic City Electric Company (“ACE”), 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, “Energy Utilities”).

³ The New Jersey Large Energy Users’ Coalition intervened in the ACE, Elizabethtown, JCP&L, NJNG, PSE&G, and SJG cases; the New Jersey Progressive Equitable Energy Coalition, the Natural Resources Defense Council, and the Sierra Club intervened in the NJNG and PSE&G cases.

⁴ The program plans also commit the Energy Utilities to working with the State to develop a program pathway that employs a “direct contracting” model. This program pathway involves a tariff and was addressed by the Board previously. In re the Implementation of P.L. 2018, c. 17 Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated June 18, 2025.

BACKGROUND AND PROCEDURAL HISTORY

The New Jersey Clean Energy Act of 2018

On May 23, 2018, Governor Murphy signed the Clean Energy Act, N.J.S.A. 48:3-87.8 *et seq.* (“CEA”), into law. The CEA mandates that New Jersey’s electric and gas public utilities increase their role in delivering EE and peak demand reduction (“PDR”) programs. The CEA further directs the Board to require the electric and gas utilities to reduce customer use of electricity and natural gas in their respective service territories.

Triennium 1

By Order dated June 10, 2020, the Board approved, pursuant to the CEA, a framework for utility programs that reduce the use of electricity and natural gas within the utilities’ territories.⁵ By the June 2020 Order, the Board directed the utilities to file three (3)-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation from July 1, 2021 through June 30, 2024 (“Triennium 1”).

The Board subsequently approved stipulations of settlement authorizing each of the Energy Utilities to implement its respective EE programs.⁶

⁵ 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”).

⁶ 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, BPU Docket Nos. GO18101112 and EO18101113, Order dated September 23, 2020; 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.*, BPU Docket Nos. QO19010040 and GO20090622, Order dated March 3, 2021; In re the Petition of Elizabethtown Gas Company for Approval of New Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act and the Establishment of a Conservation Incentive Program, BPU Docket No. GO20090619, Order dated April 7, 2021; In re the Petition of South Jersey Gas Company for Approval of New Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. GO20090618, Order dated April 7, 2021; 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, BPU Docket No. EO20090621, Order dated April 27, 2021; In re the Verified Petition of Jersey Central Power & Light Company for Approval of JCP&L’s Energy Efficiency and Conservation Plan Including Energy and Peak Demand Reduction Programs (JCP&L EE&C), BPU Docket No. EO20090620, Order dated April 27, 2021; In re the Petition of Rockland Electric Company for Approval of Its Energy Efficiency Program and Peak Demand Reduction Programs, BPU Docket No. EO20090623, Order dated June 9, 2021.

Triennium 2

By Order dated May 24, 2023, the Board directed the electric and gas public utilities to propose, for Board approval, EE programs for Triennium 2 on or before October 2, 2023, and addressed certain aspects of the Triennium 2 framework.⁷ By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.⁸ By Order dated October 25, 2023, the Board updated the energy savings targets for the Triennium 2 EE programs, extended the Triennium 1 period through December 31, 2024, and ordered that Triennium 2 would be a thirty (30)-month period covering January 1, 2025 through June 30, 2027.⁹

By the October 30, 2024 Orders, the Board approved the Stipulations.

Direct Install

Direct Install (“DI”) is one (1) of the programs that comprise the suite of commercial and industrial EE programs formerly offered by New Jersey’s Clean Energy Program (“NJCEP”) and now offered by the Energy Utilities. Designed for existing small to mid-sized facilities with an average annual energy demand of less than 300 kW/40,000 therms, DI is intended to offer a “turnkey” solution to the problem of upgrading older, inefficient lighting, HVAC, and other operational equipment. DI provides a free, on-site energy assessment, which produces a report of recommended EE upgrades (or measures), a detailed cost estimate, and the opportunity to proceed with selected EE measures. The program covers up to eighty percent (80%) of the total project cost of these measures.

When offered by the NJCEP, DI was available to both commercial and governmental institutions. With the transition of the program to the Energy Utilities, the need for local governments and boards of education to comply with public contracting laws became a barrier to those entities’ utilization of DI.¹⁰ The LPCL, the PSCL, and the CCCL require that most contracts with a value that exceeds a threshold amount may be awarded only after public advertising for bids and

⁷ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated May 24, 2023 (“May 2023 Order”).

⁸ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated July 26, 2023 (“July 2023 Order”).

⁹ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated October 25, 2023 (“October 2023 Order”).

¹⁰ N.J.S.A. 40A:11-1 to -60 (LPCL); N.J.S.A. 18A:18A-1 to -68 (PSCL); N.J.S.A. 18A:64A-25.1 to -25.44 (CCCL).

subsequent bidding. N.J.S.A. 40A:11-4; N.J.S.A. 18A:18A-4; N.J.S.A. 18A:64A-25.3 and -25.4.

The October 30, 2024 Orders incorporate by reference the design for the Triennium 2 program plans, included as Attachment 1 to each Stipulation. The program plans expressly recognize the barrier preventing local governments and public schools from accessing DI and include a commitment by the Energy Utilities to develop a pathway for local governments and boards of education to access DI through a trade ally model that includes a standardized approach to assessments, recommendations, and installations.

DISCUSSION AND FINDINGS

As a threshold issue, the Board notes that, although the program plans approved by the October 30, 2024 Orders do not discuss New Jersey's county colleges, the CCCL provisions closely parallel those of the LPCL and the SPCL and restrict the ability of the county colleges to access DI in the same way. Therefore, the Board **FINDS** that these public entity customers may also benefit from EE measures and any associated incentives and **INCLUDES** these colleges in this Order.

To ensure that the DI program pathway employing a trade ally model ("Public Pathway") reflects the requirements of the LPCL, PSCL, and CCCL as well as those of Title 48, the Public Pathway for public entities subject to the LPCL, PSCL, or CCCL (individually, "contracting unit") must be based on a separation of the energy audit with EE measure recommendations and the subsequent installation of EE measures utilizing public procurement.

Audits

In addition to following applicable public contracting laws, a contracting unit shall satisfy the requirements for an assessment in one of the following ways:

- 1) An audit obtained through the Board's Local Government Energy Audit program, the date of completion of which is no more than three (3) years from the date the contracting unit solicits bids for work recommended in the audit; or
- 2) An ASHRAE Level 1, 2, or 3 audit the date of completion of which is no more than three (3) years from the date the contracting unit solicits bids for work recommended in the audit.¹¹

Utilities may provide an ASHRAE Level 1, 2, or 3 audit at no cost to the contracting unit as part of DI program participation.

For any customer/project that has applied to the DI program prior to the effective date of this Order, the audit completion date shall be no more than five (5) years before the date the contracting unit solicits bids for work.

¹¹ ASHRAE, or the American Society of Heating, Refrigerating and Air-Conditioning Engineers, is a global organization focusing on building systems, energy efficiency, and indoor air quality. Further information about ASHRAE can be found on their website at www.ashrae.org. *ASHRAE Standard 211-2018 (RA2023): Standard for Commercial Building Energy Audits*, as well as the ASHRAE publication *Procedures for Commercial Building Energy Audits*, details the procedures for the various energy audit level procedures, including Level 1 – Walk-Through Survey; Level 2 – Energy Survey and Analysis; and Level 3 – Detailed Analysis of Capital-Intensive Modifications.

Software used for all audits on and after September 1, 2025 shall be BuildingSync compliant.¹² Any audits that are completed prior to September 1, 2025 are not required to be BuildingSync compliant.

Recommendations from Audit

Recommendations within the audit shall include EE measures and detail the related energy savings and potential decrease in cost from upgrading equipment based on the most current Technical Reference Manual calculation methods.¹³

Implementation of ECMs

Using the recommendations from the audit, the contracting unit can then satisfy the requirements of the applicable public contracting law by procuring a vendor to perform upgrades. If the estimated value of the work is expected to exceed the contracting unit's bid threshold, a competitive bid solicitation subject to LPCL, PSCL and CCCL shall be open to all interested bidders including Energy Utilities' trade allies. A contractor that performs an audit for a contracting unit, however, shall not be eligible to respond to the competitive bid solicitation. The competitive bid solicitation shall be limited to the recommendations in the audit and shall not include additional measures.

A DI bid response shall include the total cost, including an itemization of any associated Energy Utility incentives.

Pursuant to the requirements of the PSCL, LPCL and CCCL, for projects exceeding a contracting unit's bid threshold, vendors shall be procured through a competitive bid solicitation and awarded to the lowest responsible, responsive bidder. In addition, the following requirements shall apply:

- 1) The competitive bid solicitation shall include the audit as an attachment so that all eligible bidders can see the audit and recommendations.
- 2) Eligible bidders that are trade allies shall provide the total cost, including estimates of any associated utility incentives, utilizing the standardized statewide utility energy assessment tool that is currently accessible by trade allies. These incentives shall be clearly delineated in the bid response.

Contracting units may offer eligible bidders, including trade allies, the opportunity to participate in a pre-bid conference walk-through to see areas covered within the audit.

Financing

The Board notes that Staff has consulted with the New Jersey Department of Community Affairs'

¹² BuildingSync® is a registered trademark of the Alliance for Sustainable Energy, LLC. It is "a common schema for energy audit data that can be utilized by different software and databases involved in the energy audit process. It allows data to be more easily aggregated, compared, and exchanged between different databases and software tools." For more information, see <https://buildingsync.net>.

¹³ The most recent Technical Reference Manual is available at <https://njcleanenergy.com/main/public-reports-and-library/market-analysis-protocols/market-analysis-baseline-studies/market-an>

Division of Local Government Services (“DLGS”) regarding the ability of public sector customers to accept financing provided by an Energy Utility, including on-bill repayment (“OBR”), with no interest charged to the public sector customer for the DI Program. It is the Board’s understanding that financing with no interest charged to the public sector customer is permitted for the DI Program subject to such approvals or findings as may be required pursuant to law, provided that such financing is available to all customers without discrimination and is offered at 0% (zero percent) interest. Further, any contract including a financing mechanism must include a clause that makes financing subject to the availability and appropriation annually of sufficient funds by the public sector customer as may be required to meet the extended obligation.

DI projects implemented as part of the Energy Savings Improvement Program (“ESIP”) may not utilize financing provided by an Energy Utility because of the specific financing requirements of the ESIP.

As memorialized in the Triennium 2 program plans approved by the Board in the October 30, 2024 Orders, the Energy Utilities committed to developing a program pathway within the DI program for their public sector customers that would enable these customers to comply with the specific contracting statutes to which they are subject. The Board notes that DLGS has advised that the program pathway described above is consistent with N.J.S.A. 40A:11-4; N.J.S.A. 18A:18A-4; N.J.S.A. 18A:64A-25.3 and -25.4.

The Board **DIRECTS** the Energy Utilities to implement the DI program consistent with the conditions set out above. The Board **FURTHER DIRECTS** the Energy Utilities to make their best efforts to educate contracting units about the process for participating in the Direct Install open network model but also **ACKNOWLEDGES** that it is not the responsibility of the Energy Utilities to ensure contracting units’ compliance with public contract laws.

In addition, both the Energy Utilities and their public sector customers are bound by the requirements of applicable New Jersey law, including but not limited to the provisions of the LPCL, PSCL, and CCCL. Therefore, each Energy Utility and its DI contractors shall:

- Comply with public work project requirements;
- Be registered with the Department of Labor and Workforce Development, pursuant to the Public Works Contractor Registration Act (N.J.S.A. 34:11-56.48 et seq.); and
- To the extent applicable, comply with the requirements of the Prevailing Wage Act (N.J.S.A. 34:11-56.25 et seq.), which includes but is not limited to:
 - Submitting certified payroll records to the public body awarding the contract within ten (10) days of payday. The certified payrolls will be sent via e-mail or alternate method as agreed to by the public sector customer, the Energy Utility, and the DI contractor.
 - Affirming that neither the entity nor any of its affiliates is included on the list of debarred, suspended, or disqualified contractors maintained by the New Jersey Treasurer or any Federal agency.
 - Confirming that they do not do business with Iran or other New Jersey State prohibited countries or entities.

The Energy Utilities’ DI contractors shall obtain and stay current with the New Jersey Department of the Treasury’s Division of Property Management & Construction (“DPMC”) certification in DPMC category P051-Energy Auditing and any other necessary DPMC classifications/certifications required for the work being performed.

The Board **FINDS** that financing with no interest charged to the public sector customer is permitted for the Energy Utilities' DI Programs, subject to such approvals or findings as may be required by the New Jersey Department of Community Affairs' Division of Local Government Services or the Local Finance Board pursuant to law. The Board **FURTHER FINDS** that the financing requirements of ESIP prohibit the use of OBR and **ORDERS** that DI projects implemented as part of ESIP may not utilize utility financing. The Energy Utilities shall include a clause in the contract language that makes financing subject to the availability and appropriation annually of sufficient funds by the public sector customer as may be required to meet the extended obligation.

The Board **DIRECTS** Staff to coordinate with DLGS with respect to the provision of written guidance by DLGS to the contracting units on these requirements in parallel with the issuance of this Board Order. The Board further **DIRECTS** the Energy Utilities to begin implementing the DI trade ally pathway following issuance of this DLGS guidance.

The Energy Utilities' costs will remain subject to audit by the Board. This Decision and Order shall not preclude, nor prohibit, the Board from taking any actions determined to be appropriate as a result of any such audit.

The effective date of this Order is July 26, 2025.

DATED: July 16, 2025

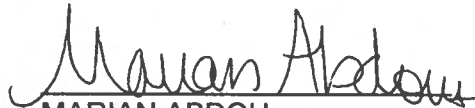
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BY:



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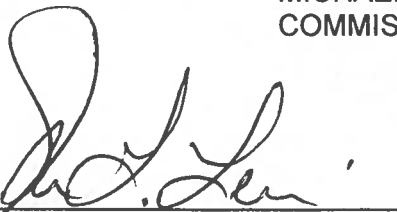
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ATTEST:

SHERRI L. LEWIS
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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 P.L. 2018, C. 17, THE NEW JERSEY CLEAN ENERGY ACT OF
2018, REGARDING THE SECOND TRIENNIUM OF ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION
PROGRAMS

DOCKET NO. QO23030150

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