



Agenda Date: 3/18/26
Agenda Item: 8B

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

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

Parties of Record:

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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 Six (6) of New Jersey’s seven (7) investor-owned electric and gas utilities executed stipulations of settlement 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 (“DI”) program pathways.⁴ On June 18, 2025, the Board issued an Order addressing the DI public sector pathway that will employ a direct contracting model to serve public entities subject to Local Public Contracts Law (“LPCL”) at N.J.S.A. 40A:11-5(1)(f), Public School Contracts Law (“PSCL”) at N.J.S.A. 18A:18A-5(a)(7), and County College Contracts Law (“CCCL”) at N.J.S.A. 18A:64A-25.5(a)(8) (collectively, “Contracting Units”).⁵

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 (“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”) (collectively, “Energy Utilities”).

³ NJLEUC was not a signatory to the RECO stipulation.

⁴ The program plans also commit the Energy Utilities to work with the State to develop a program pathway that employs a “trade ally” or “open network” model and includes a standardized approach to the DI assessments, recommendations, and installations. This second program pathway does not involve a tariff and is not addressed here.

⁵ 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 June 18, 2025 (“June 2025 Order”). The direct contracting model may also be referred to as the “closed network” model because the Energy Utility competitively procures an implementation contractor to administer the program pathway rather than keeping contractor participation open to all of the Energy Utility’s registered trade allies.

The June 2025 Order directed the Energy Utilities to file tariffs within eight (8) months for DI programs that conform to the specifications of the Order to effectuate the program pathway. This Order a the requirement for RECO to comply with the June 2025 Order.

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.⁶ 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.⁷

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

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”).

⁷ 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.

certain aspects of the Triennium 2 framework.⁸ By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.⁹ 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, 2027.¹⁰

The Board approved the stipulations by the October 30, 2024 Orders.

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 kilowatts/40,000 therms, DI is intended to offer a "turnkey" solution to the problem of upgrading older, inefficient lighting, heating, ventilation, and air conditioning ("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.¹¹ The LPCL, the PSCL, and the CCCL require that most contracts with a value that exceeds a specified threshold amount may be awarded only after public advertising for bids and 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. These laws also provide for various exceptions to these requirements, when contracts may be awarded without advertising and bidding. One (1) such exception is made for public utilities. A contract otherwise subject to the requirements for advertising and bidding may be negotiated

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 May 24, 2023.

⁹ 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.

¹⁰ 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.

¹¹ 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).

and awarded without public advertising for bids if the subject matter is “[t]he supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board[.]” N.J.S.A. 18A:18A-5(a)(7); see also N.J.S.A. 40A:11-5(1)(f); N.J.S.A. 18A:64A-25.5(a)(8).

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 address the barrier preventing local governments and public schools from accessing DI. The plans include a commitment by the Energy Utilities to develop a pathway for local governments and boards of education to access DI in a manner compatible with the exception from the standard advertising requirements that applies to goods and services provided by a public utility.

By the June 2025 Order, the Board found that the Energy Utilities’ DI public sector program pathway that employs a direct contracting model will qualify for the exception to the public advertising requirement applicable to Contracting Units provided by N.J.S.A. 40A:11-5(1)(f), N.J.S.A. 18A:18A-5(a)(7), and N.J.S.A. 18A:64A-25.5(a)(8), contingent upon Board approval of proposed tariff sheets that set forth the pricing for public sector DI services. The June 2025 Order further directed the Energy Utilities to file tariffs within eight (8) months of the Order’s effective date that clearly describe all public sector DI-related service categories and the associated prices and that comply with the provisions of the Order. In addition, the June 2025 Order directed any Energy Utility using more than one contractor to include in its tariff sheets, at a minimum, “up to” pricing for all public sector DI-related services to be offered. The Board required that this pricing reflect the total price to customers but did not require that the public tariff pages itemize the portion of the price that represents the mark-up to the contractor.

RECO’s Waiver Request

On November 6, 2025, RECO filed a petition with the Board seeking a waiver of the company’s obligation to comply with the Board’s June 2025 Order. RECO stated that, given the size of its service territory, a limited number of contractors are available and interested in responding to a competitive Request for Proposals (“RFP”). RECO asserted that this relatively small number of respondents makes it highly unlikely that the RFP would result in favorable pricing for RECO’s public sector customers compared to what they could obtain from PSE&G or ETG, both of which overlap with RECO, as these gas utility companies have larger service territories. If the waiver is granted, RECO will refer their Contracting Unit customers interested in the Public Sector DI program pathway that employs a direct contracting model to PSE&G or ETG to serve as the lead utility. PSE&G or ETG, as applicable, would then have the primary relationship with the customers. RECO will coordinate with each utility through existing Memoranda of Agreement (“MOAs”) with each of the gas utilities.

DISCUSSION AND FINDINGS

After a careful review of the record, the Board **FINDS** that PSE&G and ETG have the ability to provide Direct Install services to the Contracting Unit customers more cost effectively than RECO can. Therefore, the Board **FINDS** that it is in the interest of the ratepayers to waive the requirement that RECO file tariff sheets in accordance with the June 2025 Order and **HEREBY WAIVES** that requirement. The Board **DIRECTS** RECO to refer their Contracting Unit customers interested in the Public Sector DI program pathway that employs a direct contracting model to PSE&G or ETG to serve as the lead utility. The Board **ALSO DIRECTS** RECO to coordinate with the respective utilities under the existing MOAs for the coordination of EE programs in New Jersey.

The effective date of this Order is March 25, 2026.

DATED: March 18, 2026

BOARD OF PUBLIC UTILITIES
BY:

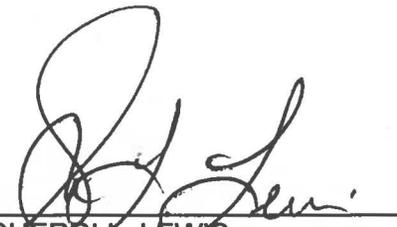

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ATTEST: 
SHERRIL L. LEWIS
BOARD SECRETARY

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 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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