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**Remarks of Brian O. Lipman, Director, Division of Rate Counsel,  
Regarding S4214 (Requires Division of Rate Counsel to consider environmental  
impact of proposed rate or service measures when representing public interest in  
certain proceedings and appeals.)**

**Presented at the Senate Environment and Energy Committee  
Meeting,  
December 9, 2021**

Good morning. My name is Brian Lipman, and I am the Director of the Division of Rate Counsel. I would like to thank Chairman Smith and members of the committee for the opportunity to testify today on S4214 (Requires Division of Rate Counsel to consider environmental impact of proposed rate or service measures when representing public interest in certain proceedings and appeals).

As you are aware, Rate Counsel represents and protects the interest of all public utility consumers -- residential customers, small business customers, small and large industrial customers, schools, libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates and/or services. Rate Counsel also provides consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

But what does this really mean? I'd like to take a moment to explain what our office actually does. We are a party to nearly every case before the Board of Public Utilities. Once a party, we review all the utility filings, we retain experts and provide

input on a variety of issues that influence utility rates including utility accounting, the amount of the utility's return on equity, and the depreciation of utility pipes, poles or wires. These issues can equate to significant charges to ratepayers, and our office ensures that ratepayers' interests are represented and protected. The majority of cases result in a settlement of the issues. This is important, and I want to emphasize it—the majority of our cases before the BPU settle. That is because our office doesn't simply look at a case and say no. We may not agree with what the utility has proposed—maybe it's too big, too costly or just doesn't make sense. But I assure you that if you talk to any utility, they will tell you that we have an open and honest dialogue on the issues. This is what allows us to settle. In cases where the parties cannot settle, a full record is created before the BPU, with Rate Counsel presenting evidence and analysis on behalf of ratepayers. We are the party that makes sure that this evidence is before the Board so that it can make an informed decision. With regard to policy matters, we not only testify here on proposed bills that impact ratepayers, but also participate in multiple stakeholder meetings before the BPU and at PJM. Often Rate Counsel is the only consumer voice at these proceedings and is able to present a perspective that would otherwise not be part of the discussion. These proceedings are too voluminous, and often too technical for individual ratepayers to participate. Our office therefore is the voice for consumers to ensure that costs remain reasonable and value is delivered for New Jersey customers.

I would also like to highlight that our participation leads to real savings. I know there were a lot of headlines recently about rising gas prices. One gas utility received a rate increase as well. While the 9.9% increase allowed by the Board may seem high,

you should be aware that the Company initially filed for an increase of 24.8%. Likewise, in a recent Electric rate case, a company sought an increase of 7.7% and we were able to keep the increase to about 5.8%. In a recent water case, we were able to reduce a significant rate increase and also negotiate a phase in of the increase so that ratepayers would not be hit with such a large increase all at once. These reductions have significant impacts on ratepayers, many of whom are struggling to pay their bills.

We have a number of concerns about this bill, but first, I would like to commend this committee for continuing to look for ways to meet our state's goals in terms of reducing of carbon emissions. Rate Counsel also continues to seek the development of effective policies to combat climate change, so we are reaching for the same goal, but with a greater focus on who ultimately will be asked to pick up the tab. Who pays is especially important now during these difficult times in our state, which has experienced a lot of hardship due to the pandemic and other economic factors. For decades, we have been active participants in many stakeholder processes held by the BPU and others to balance competing interests and develop a workable strategy to promote everything from Electric Vehicles (EVs), energy efficiency measures in homes and businesses, AMIs (also known as smart meters), offshore wind, and many other environmental programs. Rate Counsel has been involved at the federal, state and local level to try and ensure that affordability is always kept at the forefront of these discussions.

This bill directs the Rate Counsel to prioritize the climate and the environment, including among other things, the social cost of carbon, in its handling of cases. Rate Counsel opposes this bill for several reasons.

First and foremost, it is important to emphasize that Rate Counsel's issue with the bill is not with consideration of the environment. I don't think anyone denies the need to consider high carbon emissions. For us, the issue is one of focus. There are other advocates who can and do advocate on behalf environmental issues. In utility matters, there is no other advocate aside from Rate Counsel who is charged by statute with advocating for the economic interest of New Jersey ratepayers. Rising costs are important to many customers, and there needs to be an advocate in these proceedings looking at costs and how they are distributed.

Let me use electric vehicles as an example. The goal of electrifying the transportation sector is not in dispute. Who pays and how we implement this goal, however, matters. First, if we pay more than we have to, we limit how much we can do. If we can get twice the benefit for the same cost, we should do that. Second, while having our electric utilities do all the work seems convenient, utilities rightfully expect a monetary return on their investment. That's not wrong, that's how the system works. Utilities invest capital into infrastructure and then ratepayers pay not only for that capital investment, but for the return on that investment, typically an additional 9.6% in New Jersey. This is essentially guaranteed recovery from captive ratepayers. With guaranteed recovery and a known source of capital investment (ratepayers), utilities will have a natural advantage over other competitors. This is why Rate Counsel opposed utilities owning and operating electric vehicle charging stations. There are private companies that are willing to use private capital to build and operate these charging stations without ratepayer money. If we allow the private sector to compete to build charging stations, we will relieve ratepayers from having to pay these costs and the

competition will drive down prices. But if we look to the utilities to build our charging infrastructure, private companies will not be able to compete against the regulated utilities, and ratepayers will pay more. The BPU's "last resort" policy on this, reflects that and in this way, Rate Counsel's position helped push state policy in a direction that will still lead to a positive environmental outcome, but without asking ratepayers to shoulder unnecessary costs. This bill could jeopardize Rate Counsel's ability to broker such a result.

Moreover, while environmental issues are extremely important, equity matters too. A significant portion of our population does not own cars, let alone EVs. When utilities seek to implement EV infrastructure, they are asking everyone to fund the EV infrastructure. Utility rates are not differentiated based on income level. This is not Environmental Justice and it will inevitably lead to an increased burden on ratepayers in already Overburdened Communities. Poorer ratepayers will end up paying a greater portion of their income than higher income ratepayers since each of these programs has a cost that causes electric or gas bills to increase. At this particular moment in time when over 800,000 customers are in arrears on their bills, someone needs to be in the business of protecting ratepayers' financial interests. That someone is Rate Counsel. Diluting our ability to protect ratepayers by mandating that our focus shift from increasing costs and who pays those costs to the reduction of carbon eliminates an important part of the conversation and potentially leaves millions of ratepayers without a voice.

Importantly, Rate Counsel already considers the impact of climate change and the environment in its analysis in our representation of the State's utility ratepayers.

Indeed, Rate Counsel has agreed to many programs in part because of the environmental benefits they provide. For example Rate Counsel is currently working with the utilities and BPU Staff to refine the New Jersey Cost Test, which is a tool that takes into account emissions savings when looking at the costs and benefits of energy efficiency programs. Since at least 2007, Rate Counsel has continually supported energy efficiency programs, recognizing their environmental benefits, despite their increased upfront cost to ratepayers. Significantly, Rate Counsel has never just said no to any proposal. Rate Counsel has also taken into account the environmental benefits of offshore wind and other renewable energy programs when signing off on settlements providing for ratepayer contributions to those programs. Given the substantial contribution ratepayers have already made to such programs, Legislation mandating prioritization of environmental concerns is not necessary.

Independent participation by Rate Counsel in stakeholder meetings, legislative and other policy discussions and in matters that come before the BPU, PJM, FERC the FCC and other regulatory bodies has helped to ensure that the most cost-effective way of reaching suitable climate change and reliable and affordable service is carried out. This bill, however, limits that independence and thereby hurts our ability to protect the financial interests of our most vulnerable ratepayers. Rate Counsel serves as a check and balance on the use of ratepayer funds. This is a lot of money, with a lot of demands. Special interest advocates need not look at the overall rate impact, and often do not. Frankly, that's not their job—it's ours. All Rate Counsel asks is that it be allowed to continue to perform its vital function of protecting ratepayers' financial

interests, independent from any specific requirements to prioritize one issue at the expense of fiscal responsibility.

Thank you for the opportunity to testify today. I am available to answer any questions you may have.