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June 30, 2026

Via Electronic Mail

Sherri L. Lewis, Secretary of the Board
44 South Clinton Ave., 1st Floor
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**Re: In the Matter of Executive Order No. 1 - Modernization of the
Traditional Electric Distribution Utility Business Model Study
BPU Docket No. EO26040117**

Dear Secretary Lewis:

The New Jersey Division of the Rate Counsel (“Rate Counsel”) welcomes the opportunity to provide additional written comments on the proposed Electric Distribution Utility (“EDU”) Business Model Study envisioned in the Governor’s January 20, 2026 Executive Order No. 1 (“EO1”).¹ These comments respond to the materials presented at the public stakeholder meeting held on June 15, 2026.² At that meeting, Energy+Environmental Economics (“E3”), a consultant to the New Jersey Board of Public Utilities (“Board” or “BPU), presented an overview of its Phase 1 study of potential utility business model reform options. After the presentation, E3 solicited

¹ Executive Order No. 1 from the Office of the Governor of the State of New Jersey, Mikie Sherrill, dated January 20, 2026 (EO1).

² New Jersey Board of Public Utilities, Notice of Stakeholder Meeting in the Matter of Executive Order 1 Modernization of the Traditional Electric Distribution Utility Business Model Study, Docket No. EO26040117, June 2, 2026.

stakeholder feedback. Multiple stakeholders, including Rate Counsel, presented comments regarding the presentation content and the stakeholder process.

In its May 29, 2026 comments Rate Counsel made clear that it supports an objective, transparent, and comprehensive stakeholder process for evaluating electricity rates in New Jersey and assessing policies to reduce rates, especially for low- and moderate-income families, and improve Electric Distribution Utility (“EDU”) service quality.³ What follows is Rate Counsel’s response to the materials presented by E3 on June 15, 2026 (“E3 Presentation”) and to the requested areas for feedback.

Executive Summary

Rate Counsel reiterates its concerns expressed in its May 29, 2026 comments: 1) it is entirely unclear what the BPU hopes performance-based regulation (“PBR”) will accomplish for ratepayers; 2) the BPU has already concluded that a PBR alternative should be adopted; 3) the BPU is rushing the study without considering stakeholder input; and 4) other efforts necessary to reduce ratepayer bills are not being evaluated and pursued.⁴ The E3 presentation did not address these concerns and, in fact, reinforced them. Rate Counsel recommends that the BPU change course, stop rushing to complete the Phase 1 study by July 20, 2026, and instead, pursue the recommendations provided by Rate Counsel below and in its May 29, 2026 comments.⁵

³ The New Jersey Division of the Rate Counsel, In the Matter of Executive Order No. 1 – Modernization of the Traditional Electric Distribution Utility Business Model Study, BPU Docket No. EO26040117, May 29, 2026.

⁴ Id., at pp. 20-21.

⁵ Id., at pp. 19-20.

COMMENTS

A. The Objective of Electric Distribution Utility Business Model Study is Unclear

The BPU has not clearly stated the objective of the EDU Business Model Study. The objective should be to find ways to reduce electricity rates and bills by addressing all the components and charges ratepayers are responsible to pay. Instead, the study is primarily focused on distribution costs, which account for approximately 24% of residential bills.⁶ Moreover, it is unclear whether the ultimate goal is to lower rates and bills or to stabilize them. The E3 Presentation mentions both “longer-term bill stability” and “long-term reductions to electric bills.”⁷ Some of the business model reforms that E3 is considering, such as multi-year rate plans, are directed at stabilizing bills, not necessarily lowering them. In addition, other reforms being considered by E3 may increase bills, such as financial rewards for utilities.⁸ These reforms being considered contradict each other.

B. Stakeholder Input is Not Being Considered

The BPU received over 40 stakeholder submissions on May 29, 2026 in response to its initial request for comments.⁹ The E3 Presentation did not respond to any of those submissions prior to, and has not responded to any of the comments following, the June 15 second stakeholder meeting. Moreover, E3’s presentation requested feedback on topics that many stakeholders,

⁶ E3, New Jersey BPU Utility Business Models Study, June 15, 2026, p. 7.

⁷ Id., at p. 14 and p. 6.

⁸ Id., at p. 19.

⁹ New Jersey Board of Public Utilities, Notice of Stakeholder Meeting in the Matter of Executive Order 1 Modernization of the Traditional Electric Distribution Utility Business Model Study, Docket No. EO26040117, updated April 30, 2026.

including Rate Counsel (as demonstrated below), had already addressed in their earlier May 29, 2026 comments. Rate Counsel reiterates its support for an objective, transparent, and comprehensive stakeholder process and requests that the BPU respond in writing to all written comments submitted by stakeholders prior to moving forward with the study. Rate Counsel also requests an opportunity to respond to E3's Phase 1 study and be given sufficient time to prepare its presentation.

C. Performance-based Regulation is Not Being Assessed Critically

So far, the BPU and E3 effort does not appear to be critically assessing PBR. As Rate Counsel noted before, the presentations and discussions at the May 7, 2026 stakeholder meeting did not provide a balanced and comprehensive summary of PBR.¹⁰ The E3 Presentation failed to mention, let alone discuss, the litany of well-documented issues with PBR, including the problems that have arisen in states that the BPU and E3 used as examples, the very states that Rate Counsel¹¹ and other stakeholders¹² identified as experiencing a negative impact after using PBR, resulting in higher rates, reduced utility accountability, and long implementation periods.

D. Requested Feedback

What follows is Rate Counsel's feedback on the four areas requested in the E3 Presentation.¹³

¹⁰ Id., at p. 6.

¹¹ Id., at pp. 6-14.

¹² See also the May 29, 2026 submissions of the New Jersey Citizen Action/New Jersey Citizen Action Education and AARP NJ, the Electricity Customer Appliance, and the New Jersey Large Energy Users Coalition.

¹³ E3, New Jersey BPU Utility Business Models Study, June 15, 2026, p. 22.

1. Are there other specific reform options the study should consider?

Rate Counsel recommends the Board review and consider reforming the NJ Clean Energy Program and Societal Benefits Charge. ¹⁴ Another area of focus for the BPU should be the wholesale market and transmission-related costs space. If these other reform options are not considered as part of this EDU-PBR effort, they should be considered in another proceeding/process.¹⁵ Affordability cannot be distinguished by cost category, ratepayers experience only one reality: the total bill.

2. What information would you need to see in the Phase 1 report to feel confident the right options are being considered?

Rate Counsel would need to see a discussion surrounding their previously provided recommendations regarding the PBR consulting study.¹⁶ These recommendations are provided here again for convenience.

1. Instruct the consultants to conduct an independent and rigorous study that does not presuppose that PBR should be adopted but instead analyzes the advantages, disadvantages, and tradeoffs between COSR [cost-of-service-regulation] and different PBR approaches. This should include an honest review of the current status of PBR in other jurisdictions.

2. Draft a detailed study workplan with the opportunity for stakeholders to comment along the way and require BPU Staff to provide written responses to all comments. This is a necessary step to ensure the study's success and stakeholder support.

3. Switch the order of Phases 1 and 2 so that the qualitative alternative analysis is conducted after the initial data collection and calibration. Discussing alternative solutions before any analysis is undertaken is putting the cart before the horse.

4. The baseline analysis (proposed as Phase 2 but would now become Phase 1) should include a comprehensive and systematic analysis of the last 10 years of residential electricity rates for each utility and a forecast for the next five years; in other words, it should define and analyze the problem. To make an informed evaluation of alternatives, the BPU should identify all the billing components of residential electricity bills, including all state taxes and policy costs. The numerical values of each of these components (e.g., monthly fee, distribution cost, transmission cost, PJM wholesale market costs (i.e., energy, capacity, ancillary services), infrastructure improvement charges, SBC, Renewable

¹⁴ New Jersey Division of Rate Counsel Comments, In the Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for Fiscal Year 2026 Clean Energy Programs BPU Docket No. QO25040205 In the Matter of Clean Energy Programs and Budget for the Fiscal Year 2026 – True-Up, Revised Budgets and Program Changes, BPU Docket No. QO25040206, April 1, 2026 and June 8, 2026.

¹⁵ See Division of Rate Counsel Comments, BPU Dkt No. EO26040117, May 29, 2026, at pp 16-18.

¹⁶ Id., at pp 19-20.

Portfolio Standard (“RPS”) charges, Zero Emission Certificate (“ZEC”), solar/green charges, CIP, S&UT, etc.) should be compiled for each utility for the past 10 years and forecasted for the next five years.

5. Before starting Phase 3, BPU Staff should update the study workplan based on results from Phases 1 and 2 and recirculate the revised workplan for stakeholder comment. The BPU should respond to all comments in writing.
 6. For each alternative model considered in Phase 3, analyze which component of the residential retail bill would be impacted, how much it would change over the next five years, and what its impact would be on quality of service. Consider other alternatives beyond regulatory reform.
 7. Make publicly available all data, analyses, and models used by the consultant. If any data or models are proprietary, establish a process for Rate Counsel and its consultants to access them, subject to an appropriate non-disclosure agreement.
3. What criteria should the BPU use or prioritize to evaluate whether a reform option is worth pursuing?

Rate Counsel recommends the following questions be asked of each reform option considered:

1. Has this reform option failed in other states?
 2. Has this reform option resulted in higher electricity bills or rates?
 3. Can the utility game or circumvent this reform option?
 4. What are possible unintended and negative consequences of this reform option?
 5. Does the BPU have the expertise to review this reform option’s performance and make timely changes when needed?
 6. Does the BPU have access to independent, objective, and accurate data to evaluate this reform option and its implementation?
 7. How much will this reform option reduce electricity rates and bills?
 8. How long will this reform option take to achieve its anticipated reduction in electricity rates and bills?
4. Are there approaches to utility regulation in other states or other jurisdictions that you think New Jersey should study closely?

Yes, New Jersey should review and study closely jurisdictions in which reforms to utility regulation were not successful, partially successful, took a long time to implement, or were partially or completely repealed.

CONCLUSION

The BPU still has time to address the issues raised by Rate Counsel but must act with deliberate speed. First, the BPU should commit, in writing, that the objective of this effort is to lower ratepayers' electric rates and bills and that all cost components will be scrutinized, including the New Jersey Clean Energy Program (whether in this process or another). Second, the BPU should commit, in writing, to an objective, transparent, and comprehensive stakeholder process and commit to responding in writing to all stakeholder comments. Third, the BPU should commit, in writing, that it is not presupposing PBR and that all options, including cost-of-service regulation, are being considered dispassionately and critically.

Thank you for your consideration and attention to this matter.

Respectfully submitted,

BRIAN O. LIPMAN, DIRECTOR
DIVISION OF RATE COUNSEL

By: */s/ David Wand*
T. David Wand, Esq.
Deputy Rate Counsel

DW/dl
Enclosure
c: Service List

**Modernization of the Traditional
Electric Distribution Utility
Business Model
BPU Docket No. EO26040117**

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