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**Remarks of Stefanie A. Brand, Director, Division of Rate Counsel, In  
The Matter of the Utilities' Response to Tropical Storm Isaias  
BPU Quarterly Meeting  
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Good morning. My name is Stefanie Brand, and I am the Director of the Division of Rate Counsel. I would like to thank the Board for the opportunity to testify today on issues confronting the state's utilities and their response to power outages generally and Tropical Storm Isaias specifically.

As you are aware, the Division of Rate Counsel represents and protects the interest of all 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 or businesses seek changes in their rates and/or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

I appreciate the opportunity to discuss this critical topic not only from a safety standpoint, but also a financial standpoint for the ratepayers who have paid and will continue to pay billions of dollars to strengthen utility infrastructure on an ongoing basis and after major storms such as Superstorm Sandy and the recent Tropical Storm Isaias. This is also an important topic as the state's ratepayers struggle to pay utility bills and other expenses during a crushing pandemic and economic crisis that has left many people with no jobs and increased reliance on electricity.

I would like to start by making clear that we recognize that we will never be able to prevent all outages or ensure that all outages are resolved quickly. It is not feasible from a fiscal standpoint to underground all existing overhead wires or hire enough workers to do that and still maintain affordability of these essential services. That said, we certainly can and should do better. And we have to do better. Climate change is bringing us more severe and more frequent storms, and it certainly feels as though outages last much longer than they ever used to. We are more and more reliant on electricity and will be increasingly so as we tackle reducing our greenhouse gas emissions. We are only starting to get used to the fact that when our electricity goes out our phones go out. Imagine when an outage means not only that we don't have lights and TV and phones, but

also no ability to charge our cars, access public transportation or even turn on the heat .

We very much appreciate the work that Staff did in its investigation, and today I want to highlight some items they raised where we believe further work needs to be done and a few things that we think the State could do to improve resilience in the face of increasing storm activity to reduce outages and restore outages more quickly. The answer is not simply about spending money on the latest gadget or expensive capital improvements. It is about restoring accountability, transparency and a focus on reliability and day to day operating requirements.

Let's start with accountability. Remember that utilities, unlike competitive businesses, don't have the same pressures on them to make sure they provide good service. If a customer doesn't like the service they are getting from their utility, they cannot simply leave and obtain the service elsewhere. The consequences for providing bad service for them are hearings like this or in the Legislature, maybe some bad press coverage, but we need the regulatory process to substitute for those competitive forces and create consequences for insufficient performance. After Hurricane Irene and Superstorm Sandy and other recent storms, the BPU issued a series of orders in an effort to do that, requiring the electric and

gas utilities to undertake certain measures to improve our resilience and our ability to restore service after storms. The Board also invited utilities to file petitions for programs that would increase our storm resilience. I have no reason to believe that the utilities failed to implement the required measures, and the Staff report seems to indicate that for the most part they did implement the required measures. But to my knowledge there has been no systematic study or follow-up review to determine whether those measures have helped, or whether other measures should be required. There has been follow up in the form of additional requirements based on lessons learned from later storms, but if a full “post-mortem” has been conducted, it has not be done through a public process where we can fully assess the benefits we obtained from the measures that utilities have undertaken with money collected from ratepayers.

We certainly do know that the utilities did file a number of petitions, including several through the Board’s Infrastructure Improvement Program (IIP) regulations that provide a very attractive cost recovery mechanism for utilities to do this type of work. Over the last decade or so, New Jersey ratepayers have spent billions of dollars –over \$6 billion to be specific (\$1.75 billion for electric, \$4.5 billion for gas) – on special programs to improve storm response and resilience. This money has been used to

raise substations that previously flooded, install redundancy on certain parts of the system to reroute power in the event of an outage, make certain automation improvements on the utility's distribution lines, and replace vulnerable gas mains. Our office, as well as BPU staff, carefully check the work that is being done through these programs to make sure the utilities are spending the money prudently and consistent with the BPU's approval. However, once again, we have not seen a systematic review of the impact of this work, nor have we seen a careful evaluation of whether this is the work we need to be doing. The Staff report noted that the effectiveness of these programs is "difficult to measure without sufficient evaluation time." But the report concluded that "it appears the post-Sandy completed projects experienced less damage than the older, more vulnerable overhead infrastructure." That may be true, but we need a better analysis. We urge the Board to undertake an independent, comprehensive and systemic analysis of the storm resilience programs we have undertaken to date to determine whether we are implementing the right measures and taking the right approach.

We believe the Board should also look at the accountability problem that is built into its reliability regulation, *N.J.A.C. 14:5-8.10*. The regulation relies on two metrics that are used to measure reliability: the Customer

Average Interruption Duration Index (CAIDI) and the System Average Interruption Frequency Index (SAIFI). The Board looks at a utility's performance under those indices for a five year period (recently updated to 2010-2014) and a utility is deemed to be in compliance if its performance level is at least as good as it had been over that five year period. This standard is extremely easy to meet for a few reasons. First, major storms are excluded from the data and the indices used to determine compliance. While that may make sense so that one storm does not skew the analysis, it means that we do not look at the issues surrounding storm resilience and restoration performance in assessing a utility's performance. Rate Counsel has urged the Board to establish a separate metric to assess the performance of a utility in storms, so that we can address the issues we are discussing today. While it may be appropriate to review storm performance separately from "blue sky" performance, it is not, we believe, appropriate to leave storm performance out altogether. Second, the way the regulation is set up if a utility's reliability performance was bad in the past – between 2010 and 2014 – then it is held to a lower standard than other utilities whose performance was better during that same period. The utility is deemed to have met its minimum reliability standard if its performance is no worse than it was in 2010-2014 plus a standard deviation of 1.5. The

regulation almost perpetuates poor performance, letting those who are mediocre stay mediocre. Finally, the consequences in the regulation for those who fail to meet the standards are weak. If a utility fails to meet the regulatory minimum, the regulation simply provides that “further review, analysis and corrective action are required.” There are no penalties specifically provided for, no time deadlines to achieve compliance, and no specific corrective actions mentioned. The regulation does allow the Board to set higher minimum requirements and the Board would likely be able to bring an enforcement action against a recalcitrant utility, but to my knowledge, that has not been done.

That leads to another area where I think we can do better: transparency. The BPU has in fact required a significant number of measures for utilities to follow in an effort to improve performance. Many of those measures involve recordkeeping and reporting that could provide valuable information that could be used to improve our resilience and reliability efforts. Unfortunately, much of the information is filed with the Board and never posted. Our office gets some but not all of the reports. While there might be some information that would require redaction because of, for example, critical energy infrastructure issues, most of the information is public. I believe that when regulated entities know that the

information they are reporting will be made public, they strive to make it look as good as possible. It is a motivator for compliance and improvement. The Board has greatly expanded its website and the amount of information that the public can access from it. Reports on storm response, resilience programs, and reliability should also be made accessible on the Board's website.

Another area in the report that the Board should focus on is AMI. Staff notes that AMI should assist the utilities with storm response, but then also notes that RECO – the one utility that had AMI at the time Tropical Storm Isaias came through- was slow to respond. We now have other utilities that will be installing AMI over the next several years and in their filings they have promised many benefits and “use cases” where they maintain AMI will be helpful, including storm response. What I am hearing from both my counterparts and consultants in other states that have AMI is that these meters may have many useful functionalities but if you don't use them for those purposes, then those benefits don't accrue. The Board should be diligent and steadfast in making sure as you approve petitions for AMI rollouts and review requests in future rate cases for recovery of those costs that the utilities are in fact taking advantage of all of the “use cases”



and functionalities of these meters and that ratepayers are in fact getting these storm restoration benefits.

This brings me to the final and perhaps most important issue, and that is focus. We are in a period of great transformation in the energy sector. It is not surprising that the utilities and their investors want to be a major part of it. But we cannot forget that the most important thing utilities do is keep the lights on. Every time we look at this issue – including in the Staff’s report on Isaias – it is clear that falling trees are the greatest source of outages during storms. Trees account for one-quarter to one-third of outages in a storm, with equipment failure accounting for another 20%. So why isn’t enhanced tree trimming or equipment maintenance the first order of post-storm business for the utilities? Because for the most part these costs are considered Operations and Maintenance expenses, rather than capital costs. That means that while the utilities get paid for tree trimming, they do not earn the same level of profit as they would for a capital expense. The focus is on Wall Street expectations and maximizing shareholder return rather than on your street and maintaining reliable service.

To the Board’s credit, tree trimming requirements increased through enhanced regulations after Superstorm Sandy. I have no reason to believe

that the utilities aren't complying with those regulations. However, they do complain about an inability to access trees off of their right-of-way and other "obstacles" to effective vegetation management. What we have found is that when you suggest ways around those obstacles – such as asking homeowners if you can trim trees on their property that could fall on the right-of-way, you get a fairly high level of cooperation. These simple common-sense fixes can go a long way to achieving improved reliability and resilience.

Working with the Energy Division, our office has begun to ask in the context of rate cases or mergers that utilities improve their reliability performance. We have also sought and put into place monitors for some of the resilience and infrastructure improvement programs. We have gotten into place improvement plans that require the utility to meet regularly with Board Staff and Rate Counsel to come up with solutions that improve reliability. When the utility embraces the improvement plan and focuses on reliability, we have seen significant improvement. I believe that the accountability and transparency measures that I discussed earlier would help bring that much needed focus. This focus needs to be at the forefront of the utilities' everyday work. I understand that tree trimming is not exotic or cutting edge, but it is central to keeping the lights on and maintaining

reliability. As we ask the utilities to assist in the transformation of our system, we must ensure that their focus remains on providing safe, adequate and proper utility service. It should be as important –if not more important- than maximizing shareholder profits.

I thank you for the opportunity to testify today. I applaud the Board for having this hearing and urge continued diligence on these important issues. Thank you.