



State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P.O. Box 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

BRIAN O. LIPMAN
Director

**Remarks of Brian O. Lipman, Director of Division of Rate Counsel, Regarding S3992
(Requires electric public utilities to develop and implement grid modernization plans;
appropriates \$300 million)**

**Presented at the Senate Environment and Energy Committee Meeting
November 20, 2023**

Good afternoon. My name is Brian Lipman, and I am the Director of the Division of Rate Counsel. First, I would like to commend Chairman Smith and members of the committee for beginning an important discussion regarding grid modernization. While Rate Counsel does have some concerns about implementation, Rate Counsel is generally supportive of the concepts set forth in the bill. Rate Counsel does believe that this is a good starting point to discuss this important issue and most importantly, the funding for grid modernization.

First, I want the Committee to understand the scope of this undertaking. Many of our electric utilities have not kept up with the growing needs of our system, and the grid modernization project will likely be twofold, first getting the grid to where it should be now and then preparing it for where it will need to be in the very near future. The work is extensive, and it is costly. JCP&L just filed a modernization plan that includes a price tag of over \$900 million. PSE&G has already spent billions modernizing its system. The Board has authorized \$1.2 billion in transmission upgrades to support only one small portion of the offshore wind we hope to bring to New Jersey. This will be a long process and will cost us here in New Jersey not hundreds of millions, but billions of dollars. These costs cannot fall only on ratepayers.

This bill attempts to assist with that by the establishment of a Grid Modernization Ratepayer Relief Fund. The Fund shall be administered by the Board and shall be credited with (1) money appropriated by the Legislature (2) money received from the societal benefits charge, as determined by the Board (3) money made available to the Board pursuant to the implementation of the Regional Greenhouse Gas Initiative (4) and any return on investment of money deposited in the fund. In fact, the bill appropriates \$300 million from the General Fund to establish this program. While this is appreciated, as stated above, \$300 million is a drop in the bucket. Rate Counsel suggests that the Fund be funded through annual appropriations. The Fund should also be required to seek federal funds when available. To that end, the utilities should be required to

demonstrate as part of the grid modernization plan how they will be applying for any available federal funds. It is to all parties benefit to seek and recover federal funding, and the utilities should be required to demonstrate best efforts to obtain that federal funding. The fund should not rely in future years solely on SBC monies, as that is simply not sustainable.

Rate Counsel is supportive of the Legislature's efforts to find financial relief for ratepayers, and appreciates the desire to find funding sources other than ratepayers. However, Rate Counsel recommends that the most beneficial way to provide relief is to keep the money in the pockets of the State's residents and businesses in the first place, rather than collecting and redistributing through the utilities. Rate Counsel is concerned with the bill's provision on ratepayer relief, specifically the portion where grants would be given to the utilities directly, to then be implemented by them for the relief of ratepayers. It is unclear how this provision would actually work. If the utilities implement the fund, they will incur incremental capital and O&M costs to administer the grants, which will further compound the rate increases this section is attempting to address. Rate Counsel suggests instead that the money be provided to the utilities as a capital contribution. The utility would then reduce the amount recovered from ratepayers by the amount of the grant. This will have the effect of ensuring the utility timely recovers its expenses and that the resulting bill impacts are reduced for all ratepayers. However, the grants should only be used to reduce the cost of the plan, not to increase the plan's scope.

Rate Counsel agrees with the idea of requiring a plan from the utilities. It has been Rate Counsel's experience, however, that many of the plans filed with the Board are incomplete or not as thoroughly vetted as they should be. Rate Counsel suggests either including in the bill, or allowing the Board to establish, some more technical requirements for the plans so that they are more fully developed upon filing. Moreover, the Board should be given a 30 day period in which to determine that the submitted plan is administratively complete before beginning a more comprehensive review of the plan. With regard to timing of review, although the utilities are given a year to develop a Grid Modernization Plan, the Board is only given 120 days to approve, conditionally approve, or disapprove the proposed plan. Given that the Board will be reviewing four plans at the same time, the complexity of the plans and the need for other interested parties and not just Rate Counsel, this is too short a period for review and comment on the proposed plans. Rate Counsel suggests at least 180 days after the Board finds that the submitted plan is administratively complete.

With regard to implementation, the bill requires an electric public utility to begin implementing the plan within 90 days of approval by the Board. If a utility fails to implement its plan in a timely manner, or if it does not achieve the stated objectives, there is no consequence or penalty. The utility must simply provide written notice to the Board. Rate Counsel suggests that there be some consequence to a utility not properly implementing its plan or achieving the results the plan is supposed to achieve.

Rate Counsel also has concerns about the recovery of costs in implementing the plan by the utilities. Notwithstanding the lack of obligation on the part of the utility to fulfill its obligations to deliver results under its own designed plan, each utility is entitled to “full and timely recovery of all costs incurred in the implementation of its plan.” Although the costs are subject to the review of the Board, the language does not explicitly require the plan implementation costs to be reasonable or prudent, nor does it provide for consequences if the plan does not achieve the contemplated results. This puts customers at severe risk of overpaying for imprudent and unreasonable costs. Utilities are in the best position to control their own expenses and assure that grid modernization plans achieve results that are beneficial for their ratepayers and the State. Rate Counsel suggests that each plan also be required to include performance metrics that must be met prior to recovery. As the committee is aware, the goal here is not simply to build out the electric grid, but to ensure that we are doing so in a prudent and cost effective manner. The utilities will be providing a plan on how to do so, and should be held to the results they promise as a condition of recovery. Without proper review as to the reasonableness and prudence of the plan implementation, S3992 allows utilities free rein to overspend at the ratepayers’ expense.