



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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**MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF PUBLIC UTILITIES**

A Regular Board meeting of the Board of Public Utilities was held on October 22, 2014, at the State House Annex, Committee Room 16, 125 West State Street, Trenton, New Jersey 08625.

Public notice was given pursuant to N.J.S.A. 10:4-18 by posting notice of the meeting at the Board's Trenton Office, on the Board's website, filing notice of the meeting with the New Jersey Department of State and the following newspapers circulated in the State of New Jersey:

Asbury Park Press  
Atlantic City Press  
Burlington County Times  
Courier Post (Camden)  
Home News Tribune (New Brunswick)  
North Jersey Herald and News (Passaic)  
The Record (Hackensack)  
The Star Ledger (Newark)  
The Trenton Times

The following members of the Board of Public Utilities were present:

Richard S. Mroz, President  
Joseph L. Fiordaliso, Commissioner  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Upendra J. Chivukula, Commissioner

President Mroz presided at the meeting and Kristi Izzo, Secretary of the Board, carried out the duties of Secretary.

It was announced that the next regular Board Meeting would be held on November 21, 2014 at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

The Board recognized and thanked Chief Counsel Tricia Caliguire and by unanimous vote, adopted a Resolution commending her for service to the Board and the State.

## CONSENT AGENDA

### I. AUDITS

#### A. Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations

EE14050486L HealthTrust Purchasing Group, LP R – EA/PA/EC  
GE14050487L

GE14091033L Alternative Utility Services, Inc. R – EC

#### Electric Power and/or Natural Gas Supplier Initial License

EE14070671L Aggressive Energy, LLC I – EGSL  
GE14070672L

#### Electric Power and/or Natural Gas Supplier Renewal Licenses

EE13060518L Constellation Energy Power Choice, Inc. R – ESL  
GE13060519L Constellation Energy Gas Choice, Inc. R –GSL

EE14050530L Direct Energy Business Marketing, LLC R – EGSL  
GE14050531L d/b/a Direct Energy Business

EE14040335L Noble Americas Energy Solutions, LLC R – EGSL  
GE14040336L

**BACKGROUND:** The Board must register all energy agents and consultants, and the Board must license all third party electric power suppliers and gas suppliers. An electric power supplier, gas supplier, or clean power marketer license shall be valid for one year from the date of issue, except where a licensee has submitted a complete renewal application at least 30 days before the expiration of the existing license, in which case the existing license shall not expire until a decision has been reached upon the renewal application. An energy agent, private aggregator or energy consultant registration shall be valid for one year from the date of issue. Annually thereafter, licensed electric power suppliers, gas suppliers, and clean power marketers, as well as energy agents and private aggregators, are required to renew timely their licenses in order to continue to do business in New Jersey.

Having reviewed the submitted applications in accord with N.J.A.C. 14:4-5.4, Staff recommended the Board issue renewal registrations as an energy agent, private aggregator and/or energy consultant for one year to:

- HealthTrust Purchasing Group, LP
- Alternative Utility Services, Inc.

In addition, Staff recommended the following applicant be issued initial licenses as an electric power and natural gas supplier for one year:

- Aggressive Energy, LLC

Staff also recommended the following applicants be issued renewal licenses as an electric and/or natural gas supplier for one year:

- Constellation Energy Power Choice, Inc.
- Constellation Energy Gas Choice, Inc.
- Direct Energy Business Marketing, LLC d/b/a Direct Energy Business
- Noble Americas Energy Solutions LLC

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**Roll Call Vote:**

<b>President Mroz</b>	<b>Aye</b>
<b>Commissioner Fiordaliso</b>	<b>Aye</b>
<b>Commissioner Holden</b>	<b>Aye</b>
<b>Commissioner Solomon</b>	<b>Aye</b>
<b>Commissioner Chivukula</b>	<b>Aye</b>

**Electric Power and/or Natural Gas Supplier Renewal Licenses**

**GE14060577L                      Hess Corporation                      R - GSL**

**BACKGROUND:** President Mroz and Commissioner Chivukula both stated they are recused from this matter. Staff recommended the following applicant be issued renewal license as an electric and/or natural gas supplier for one year:

- Hess Corporation

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

**Roll Call Vote:**

<b>Commissioner Fiordaliso</b>	<b>Aye</b>
<b>Commissioner Holden</b>	<b>Aye</b>
<b>Commissioner Solomon</b>	<b>Aye</b>

**II. ENERGY**

**A. Docket No. GE14090957 – In the Matter of the Petition of South Jersey Gas Company for Approval of a Municipal Consent in the Township of Southampton, County of Burlington, State of New Jersey.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. On September 5, 2014, the Township of Southampton (Township) filed a petition with the Board requesting approval of a municipal consent granted by South Jersey Gas Company for (1) exclusive and perpetual consent and permission to furnish gas for light, heat and power in the Eagles Mere Development, located in Southampton, Burlington County, New Jersey; and (2) exclusive consent and permission to lay and construct its pipes and mains and related appurtenances and facilities within the streets, alleys, squares and public places within the Township for a period of 50 years.

New Jersey Division of Rate Counsel (Rate Counsel) was not opposed to this approval; however, Rate Counsel requested that approval of the petition be conditioned on certain

provisions, which have been incorporated into the Board's Order in this matter except as to a time limitation on the right to serve.

After review, Staff recommended the Board approve the municipal consent without modification.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

### III. CABLE TELEVISION

**A. Docket No. CE14080908 – In the Matter of the Petition of Cablevision of Oakland, LLC for a Renewal Certificate of Approval to Continue to Operate and Maintain a Cable Television System in the Borough of Butler, County of Morris, State of New Jersey.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. On October 15, 2013, the Borough of Butler (Borough) granted Cablevision of Oakland, LLC (Cablevision) renewal municipal consent for a term of ten years from the date of issuance of the Renewal Certificate of Approval. On June 17, 2014, Cablevision accepted the terms and conditions of the ordinance, and on August 14, 2014, Cablevision filed a petition with the Board for its Renewal Certificate of Approval for the Borough.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**B. Docket No. CE14060578 – In the Matter of the Petition of Comcast of the Meadowlands, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Wallington, County of Bergen, State of New Jersey.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. On March 27, 2014, the Borough of Wallington (Borough) granted Comcast of the Meadowlands, LLC (Comcast) renewal municipal consent for a term of 15 years. On April 21, 2014, Comcast accepted the terms and conditions of the ordinance, and on June 13, 2014, Comcast filed a petition with the Board for its Renewal Certificate of Approval for the Borough.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**C. Docket No. CE14060540 – In the Matter of the Petition of Comcast of New Jersey II, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Winfield, County of Union, State of New Jersey.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. On March 17, 2014, the Township of Winfield (Township) granted Comcast of New Jersey II, LLC (Comcast) renewal municipal consent for a term of 15 years. On April 4, 2014, Comcast accepted terms and conditions of the ordinance, and on June 4, 2014, Comcast filed a petition with the Board for its Renewal Certificate of Approval.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**D. Docket No. CE13111113 – In the Matter of the Petition of Comcast of Burlington County, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Riverton, County of Burlington, State of New Jersey.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. On October 9, 2013, the Borough of Riverton (Borough) adopted an ordinance granting renewal municipal consent to Comcast of Burlington County, LLC (Comcast). On October 18, 2013, Comcast formally accepted the terms and conditions of the ordinance, and on November 19, 2013, Comcast filed with the Board for a renewal of its Certificate of Approval for the Borough.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**IV. TELECOMMUNICATIONS**

**A. Docket No. TM14080906 – In the Matter of the Joint Petition of REP/CRF Holdings, LLC and Cross River Fiber, Inc. for a Transfer of Control.**

**BACKGROUND:** On August 12, 2014, REP/CRF Holdings LLC (Purchaser) and Cross River Fiber, Inc. (Cross River) (collectively, the Petitioners), filed a petition with the Board requesting approval for (i) a stock purchase transaction resulting in the direct transfer of control of Cross River and the indirect transfer of control of Cross River Fiber, LLC, a wholly owned subsidiary of Cross River (CRF LLC), to Purchaser, and (ii) a related loan transaction.

The Petitioners also requested that the Board confirm that Mass Migration Rules do not apply to this transaction and further requested a waiver of the “customer notice requirement”.

Having reviewed the petition and supporting documents, Staff did not find any reason to believe that there will be an adverse impact on rates, competition in New Jersey, the employees of the Petitioners, or on the provision of safe adequate and proper service to New Jersey consumers. Moreover, a positive benefit may be expected from the strengthening of the Petitioner’s competitive posture in the telecommunications market. Furthermore, Staff agreed with the Petitioners that the Mass Migration rules do not apply to this transaction because customers will not be “migrating” and therefore the waiver request for customer notification is justified.

Staff recommended that Petitioners be allowed to proceed with the transfer and related financing.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**V. WATER**

There were no items in this category.

**VI. RELIABILITY & SECURITY**

**A-1. Docket Nos. AS14090978K et al. – In the Matter of Alleged Violations of the Underground Facility Protection Act Pursuant to N.J.S.A. 48:2-73 et seq.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. This matter involved settlements of alleged violations of the Underground Facility Protection Act by both excavators and operators of underground facilities. The number of settlements were 36 and the total amount of penalties was \$98,000.

The Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day, with a \$25,000 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000 for each violation for each day with a \$1,000,000 maximum for any related series of violations.

After review, Staff recommended the Board to approve all those cases in which offers of settlement and payment have been received.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**A-2. Docket Nos. GS14090980K and GS14090998K – In the Matter of Alleged Violations of the Underground Facility Protection Act Pursuant to N.J.S.A. 48:2-73 et seq.**

**BACKGROUND:** President Mroz and Commissioner Chivukula recused themselves from this matter. This matter involved settlements of alleged violations of the Underground Facility Protection Act by both excavators and operators of underground facilities. The number of settlements were two and the total amount of penalty was \$4,000.

The Board through the Bureau of One-Call supervises and enforces the One-Call Underground Damage Prevention System. The Act subjects violators of its provisions to civil penalties of not less than \$1,000 and not more than \$2,500 per violation per day, with a \$25,000 maximum for a related series of violations. Violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties not to exceed \$100,000 for each violation for each day with a \$1,000,000 maximum for any related series of violations.

After review, Staff recommended the Board approve all those cases in which offers of settlement and payment have been received.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**VII. CUSTOMER ASSISTANCE**

**A. Docket Nos. BPU GC13040334U and OAL PUC 09394-13 – In the Matter of Jesse J. Averhart, Petitioner v. Public Service Electric and Gas Company, Respondent – Billing Dispute.**

**BACKGROUND:** Commissioner Chivukula recused himself from this matter. This matter involved a billing dispute between Jesse J. Averhart (Mr. Averhart) and Public Service Electric and Gas Company (PSE&G). The petition was transmitted to the Office of Administrative Law on June 24, 2013, as a contested case. Administrative Law Judge (ALJ) Jeff S. Masin filed an Initial Decision in this matter with the Board on September 24, 2014, approving a Stipulation of Settlement (Settlement) of the parties.

The Board, at its discretion, has the option of accepting, modifying or rejecting the Initial Decision of the ALJ Masin. Staff recommended the Board adopt the Initial Decision of ALJ Masin.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**B. Docket Nos. BPU GC13070636U and OAL PUC 13471-13 – In the Matter of Dianne Argila, Petitioner v. New Jersey Natural Gas Company, Respondent – OAL Request for Extension.**

**BACKGROUND:** The Initial Decision of the Administrative Law Judge was received by the Board on August 27, 2014, therefore the 45-day statutory period for the review and the issuing of a Final Decision expired on October 14, 2014. Prior to that date, the Board requested an additional 45-day extension of time for issuing the final Decision in order to fully review the record in this matter. Staff recommended the time limit for the Board to issue a Final Decision be extended until November 28, 2014.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**VIII. CLEAN ENERGY**

There were no items in this category.



**IX. MISCELLANEOUS**

**A. Approval of the Minutes of the August 20, 2014 Agenda Meeting.**

**BACKGROUND:** Staff presented the minutes of August 20, 2014 Board meeting minutes and recommended that they be accepted.

**DECISION:** The Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>abstained</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>abstained</b>

## AGENDA

### 1. AUDITS

A. Docket No. ES14091015 – In the Matter of N.J.S.A. 48:3-78b, N.J.S.A. 48:3-79b, N.J.A.C. 14:4-5.6, N.J.A.C. 14:4-5.7 and N.J.A.C. 14:4-5.10 – Renewal Applications for Electric Power Suppliers and Gas Suppliers – See Executive Session.

Paul Flanagan, Executive Director, presented this matter.

**BACKGROUND AND DISCUSSION:** This matter was initially discussed in Executive Session pursuant to the attorney/client privilege exception to the Open Public Meetings Act.

President Mroz and Commissioner Chivukula both stated they are recused from this matter. On February 9, 1999, the Electric Discount and Energy Competition Act, (EDECA) became law. One of EDECA's objectives was to afford New Jersey consumers the opportunity to access the competitive markets for electric power generation and gas supply service. The Board must license all third party electric power suppliers and gas suppliers (TPS).

The Board's regulations provide that the license shall expire within one year of its issuance unless the TPS files an application within 30 days before the license expires. If a timely renewal application is filed, the license does not expire while the renewal application is under review. N.J.S.A. 48:3-78b; -79b; N.J.A.C. 14:4-5.6(a) and 14:4-5.7(c). Despite the clear statutory and regulatory language regarding the term of the license and the consequences of failing to file a timely renewal application, some third party suppliers have not filed for renewal before the expiration of their licenses but have continued to serve customers in the State as if their licenses were current.

As part of the Board's oversight responsibilities and ongoing review of issues regarding electric and gas third party suppliers and the rules governing them, the Board, at its September 30, 2014 Agenda Meeting, adopted rules consistent with L. 2013, c.263, and required every electric and gas third party supplier to provide a one-page contract summary in plain language to new and renewing customers.

Staff, intends to enforce the strict terms of the regulations going forward; however, because there has not been strict enforcement in the past, Staff recommended extending a short waiver period to all electric and gas third party suppliers until December 31, 2014. The amnesty would allow all the electric and gas third party suppliers to submit their filings or bring their filings up to date without the imposition of penalties. During that time, all pending electric and gas third party supplier filings will be reviewed by Staff and treated as if they had all been filed in a timely manner. Effective January 1, 2015, N.J.A.C. 14:4-5.6 to -5.7 will be strictly enforced.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

**Roll Call Vote:**            **Commissioner Fiordaliso**    **Aye**  
                                  **Commissioner Holden**        **Aye**  
                                  **Commissioner Solomon**      **Aye**

## 2. ENERGY

**Jerome May, Director, Division of Energy**, presented these matters.

**A. Docket No. ER12080795 – In the Matter of the Verified Petition of Rockland Electric Company for Approval of an Energy Efficiency Stimulus Program and Associated Rate Recovery - 2012 Annual True-Up; and**

**Docket No. ER13090812 – In the Matter of the Verified Petition of Rockland Electric Company for Approval of an Energy Efficiency Stimulus Program and an Associated Rate Recovery – 2013 Annual True-Up.**

**BACKGROUND AND DISCUSSION:** By Order dated November 23, 2009 in Docket Nos. EO09010056 and EO09010061, the Board approved a stipulation establishing an Energy Efficiency Stimulus Program (EES Program) which included three energy efficiency sub-programs for Rockland Electric Company (RECO or Company) to implement for a one-year period ending December 31, 2010. The three programs to be implemented were: 1) Low Income Audit and Install Sub-Program; 2) Residential Enhanced Rebate Sub-Program; and 3) On-Line Energy Audit Sub-Program.

The Company was authorized to recover the costs of the EES Program through a non-bypassable surcharge on all distribution customers (RGGI Surcharge). The RGGI Surcharge, applicable to all rate schedules on an equal cents per kilowatt-hour basis, is subject to deferred accounting, with interest. It is reconciled and adjusted on an annual basis, incorporating a true-up for any prior period over- or under-recoveries and an estimate of the revenue requirements and the forecasted kWh sales to customers during the upcoming year ending December 31, in which a revised RGGI Surcharge will be in effect.

On August 31, 2012, RECO submitted a filing to reconcile its costs and recoveries for the calendar year 2012 (2012 Annual True-Up). The 2012 Annual True-Up was assigned BPU Docket No. ER12080795 and proposed a RGGI Surcharge of \$0.000116 per kWh, including SUT.

On August 30, 2013, RECO submitted a filing to reconcile its costs and recoveries for the calendar year 2013 (2013 Annual True-Up). The 2013 Annual True-Up was assigned BPU Docket No. ER13090812 and proposed a RGGI Surcharge of \$0.000311 per kWh, including SUT.

RECO, Board Staff and the New Jersey Division of Rate Counsel reached an agreement on all issues in the 2012 and 2013 Annual True-Up petitions and executed a stipulation of settlement (Stipulation).

The Stipulation provides updates with actual costs through December 31, 2013, with a proposed RGGI Surcharge for EES including SUT of \$.000307 per kwh. When added to the current Low Income Audit II Program RGGI surcharge component of \$.000083 in the tariff (which is not the subject of this petition and is not changing), the total RGGI Surcharge approved by the Board was \$0.000390 per kwh.

Staff recommended the Board approve the Stipulation. Staff further recommended the Board order RECO to file revised tariff sheets conforming to the terms of the Stipulation within five days of service of the Board Order.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**B. Docket No. ER13060537 – In the Matter of the Petition of Rockland Electric Company’s Annual Societal Benefits Charge (SBC) Filing; and**

**Docket No. ER14050439 – In the Matter of the Petition of Rockland Electric Company’s Annual Societal Benefits Charge (SBC) Filing.**

**BACKGROUND AND DISCUSSION:** In accordance with the July 22, 2002 Order of the Board in Docket Nos. EO97070464, EO97070465 and EO97070466, on June 21, 2013, Rockland Electric Company (RECO or Company) filed its annual reconciliation of over-recovered or under-recovered balances collected through its Societal Benefits Charge (SBC) for approval by the Board, and for authorization to collect from customers sufficient funds to provide for current program cost recovery. The reconciliation and the current program costs relate to the Company’s Demand-Side Management programs (DSM) and the Company’s share of the costs of the Clean Energy program (CEP). The matter was assigned Docket No. ER13060537 (2013 SBC Filing).

In its 2013 SBC Filing, RECO proposed an increase in the rate components of the SBC to 0.3715 cents per kilowatt hour (kWh), including Sales and Use Tax (SUT), which reflected an increase over the previously existing rate of 0.3483 cents per kWh, including SUT, for all classes of customers effective August 1, 2013.

On May 15, 2014, RECO filed its 2014 SBC Filing with the Board which was assigned Docket No. ER14050439. In its 2014 SBC Filing, RECO proposed a decrease in the rate components of the SBC to 0.3155 cents per kWh, including SUT, which reflected a decrease over the previously existing rate of 0.3914 cents per kWh, including SUT, for all classes of customers effective August 1, 2014.

Since the submission of 2013 and 2014 SBC Filings, the Company has recalculated the DSM and Clean Energy components of the SBC based on actual data through July 31, 2014. As a result of the recalculation, the Company’s proposed SBC rate is a decrease from the current rate of 0.3914 cents per kWh to 0.2547 cents per kWh, including SUT.

The rate includes an over-collection of \$1,638,187 for the period August 1, 2013 through July 31, 2014, in addition to the projected DSM/CEP spending for the twelve-month period ending July 31, 2015. The Company's recalculation did not propose any changes to the Universal Service Fund and Lifeline rate components of the SBC, as these components are separately reviewed and set in a statewide proceeding.

On October 10, 2014, the Parties entered into a Stipulation of Settlement (Stipulation) resolving all issues in these proceedings. The Stipulation will result in a typical residential customer with an average monthly usage of 925 kWh having a decrease in his/her monthly bill of \$1.27 or 0.76%.

Staff recommended the Board adopt the Stipulation of the Parties.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**C. Docket GO13090881 – In the Matter of the Petition of TAQA Gen-X, LLC for Emergent Relief.**

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. On September 27, 2013, TAQA GEN-X, LLC (TAQA) filed a petition seeking emergent relief related to an increase in the transportation service rate to be charged to its Sayreville, New Jersey facility by its gas distribution company, Public Service Electric and Gas Company (PSE&G). The Sayreville generation facility, known as Red Oak Generation Station (Red Oak), is a 830 MW combined-cycle, gas-fired power plant located at 832 Red Oak Lane in the Borough of Sayreville, Middlesex County, New Jersey. Red Oak currently has a tolling agreement with TAQA. Red Oak has agreed to use the generating facility to convert the natural gas fuel provided by TAQA into electric energy for delivery back to TAQA. TAQA currently supplies natural gas to Red Oak through (i) a gas supply agreement with PSEG Energy Resources and Trade (ER&T), and (ii) a gas transportation agreement with PSE&G.

According to the petition, until October 1, 2013, TAQA's gas transportation service agreement with PSE&G provided for service under Rate Schedule TSG-NF at a discounted rate of \$0.10 per dth for up to 132,000 dth/day of interruptible transportation service. Also according to the petition, the primary term of the contract expired on or about October 1, 2013. TAQA asserted that despite negotiation efforts, PSE&G, ER&T and TAQA were unable to negotiate mutually agreeable revised pricing terms either for a new gas supply agreement with respect to ER&T and TAQA or a new or continued transportation agreement with respect to PSE&G and TAQA.

PSE&G sent a termination letter to TAQA, dated September 27, 2012, with termination to be effective on or after October 1, 2013. TAQA requested that the Board require PSE&G to continue its current transportation rate until the earliest of: 1) September 30, 2014; 2) commencement of New Jersey Natural Gas Company (NJNG) service to Red

Oak; or 3) the effective date of a negotiated resolution between TAQA and PSE&G.

By Order dated November 23, 2013 (November Order), the Board directed PSE&G to continue its discounted gas transportation service to TAQA beyond October 1, 2013. The November Order did not specify a date by which PSE&G was to terminate its discounted gas transportation service to TAQA. By letter dated December 31, 2013, PSE&G once again notified TAQA of its intent to terminate discounted gas transportation service upon the earlier of Red Oak's interconnection to the NJNG system or September 30, 2014. TAQA notified PSE&G that it contested the proposed service termination by letter dated February 6, 2014.

In an effort to resolve this matter, TAQA and PSE&G (collectively the Parties) executed a stipulation of settlement (Stipulation) on September 15, 2014. The stipulation stated that PSE&G's discounted rate for gas transportation service to TAQA at Red Oak shall expire upon the earlier of (i) the commencement of natural gas transportation service by NJNG to Red Oak, or (ii) July 1, 2015; and that PSE&G gas transportation service to TAQA at Red Oak shall terminate upon the commencement of natural gas transportation service by NJNG to Red Oak.

Staff recommended the Board approve the Stipulation of the Parties.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**D. Docket No. GM12100970 – In the Matter of the Petition of Cogen Technologies Linden Venture, L.P., Public Service Electric and Gas Company and Elizabethtown Gas for (1) Motion for Protective Order and Exemption from Public Disclosure of Confidential Information; and (2) Approval of Gas Service Agreement Between Cogen Technologies Linden Venture, L.P. (Buyer) and Public Service Electric and Gas Company and Elizabethtown Gas (Sellers).**

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. By Order dated March 27, 1991, under Docket No. GM90090949, the Board approved a Gas Service Agreement (GSA) between Cogen Technologies, Linden Venture, L.P. (Linden Cogen or Buyer), Public Service Electric and Gas Company (PSE&G) and Elizabethtown Gas (E'Town and together with PSE&G, Sellers). Under the terms of the GSA, Linden Cogen constructed a 614 MW combined cycle gas fired cogeneration facility at the Conoco Phillips Refinery in Linden, New Jersey. The facility commenced operation in 1992. Linden Cogen has a power sales contract with Consolidated Edison Company (Con Ed).

On November 20, 2012, the Board approved a joint petition of PSE&G, E'Town and Linden Cogen (the Petitioners) modifying the GSA under an Interim Operating Agreement (IOA). Then the Board, on October 16, 2013 (October 2013 Order), approved an extension of the IOA, for a term ending on March 31, 2014. Per the October 2013 Order, the Petitioners filed notice with the Board on February 27, 2014.

The notification indicated that they wished to continue the IOA through March 31, 2015. On June 18, 2014, the Petitioners submitted a proposed amendment to the IOA, memorializing their intent to extend the IOA under the same terms as previously approved by the Board, followed on June 27, 2014, by an agreement executed by the Petitioners.

Staff recommended the Board approve the agreement of the Parties.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**E. Docket No. AX13030196 – In the Matter of the Board’s Review of the Prudency of the Costs Incurred by New Jersey Utility Companies in Response to Major Storm Events in 2011 and 2012; and**

**Docket No. GO13070610 – In the Matter of the Board’s Establishment of a Generic Proceeding to Review the Prudency of the Costs Incurred by New Jersey Natural Gas Company in Response to Major Storm Events in 2011 and 2012.**

**BACKGROUND AND DISCUSSION:** On March 20, 2013, the Board issued an Order (March 20 Order) establishing a generic proceeding to review the prudency of costs incurred by New Jersey utilities in response to multiple major storm events in 2011 and 2012 (Generic Storm Costs Proceeding). Among other things, the March 20 Order required any utility seeking reimbursement for these costs from its ratepayers to file a detailed expense report by July 1, 2013, for evaluation and prudency review under its own separate sub-docket within the Generic Storm Costs Proceeding.

New Jersey Natural Gas Company (NJNG or Company) filed a petition on July 1, 2013, seeking Board approval to recover, through base rates, all the costs it incurred associated with Superstorm Sandy.

By Order dated November 22, 2013, this matter was retained for a hearing at the Board, and designated Commissioner Dianne Solomon as the presiding Commissioner with authority to rule on all matters that arise during the proceeding. On January 2, 2014, Commissioner Solomon (then President) issued an initial Order Setting Bar Date for the filing of motions to intervene, Manner of Service and Preliminary Schedule. Commissioner Solomon issued a Prehearing Order along with a procedural schedule for this matter on February 7, 2014.

The parties engaged in settlement discussions and on October 14, 2014, executed a Stipulation of Settlement.

There is no rate impact on customers at this time as a result of the deferred O&M and capital investments incurred by the Company for restoration of the NJNG gas distribution system. The Parties agree that NJNG will recover the costs associated with Superstorm

Sandy in the Company's next base rate case, subject to the amortization period for the O&M costs determined in that case.

Staff recommended Board approval of the Stipulation of the Settlement.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**F. Docket No. EO12121072 – In the Matter of the Board's Review of the Applicability and Calculation of a Consolidated Tax Adjustment.**

**Jake Gertsman, Legal Specialist, Office of Chief Counsel,** presented this matter.

**BACKGROUND AND DISCUSSION:** President Mroz and Commissioner Chivukula both stated they are recused from this matter. This matter involved Staff's proposal to the Board to continue to include a Consolidated Tax Adjustment (CTA) in utility base rate filing and maintain current CTA policy with the following modifications:

1. The review period for the calculation will be for five calendar years including any complete year that is included in the test year;
2. The calculated tax adjustment based on that review period will be allocated so that the revenue requirement of the company is reduced by 25% of the adjustment; and
3. Transmission assets of the Electric Distribution Company's (EDC's) would not be included in the calculation of the CTA.

In order to implement this modified policy, Staff recommended:

1. In ongoing base rate base cases where the record remains open, the Board directed affected utilities to file the calculation of the CTA, as modified by the order, within the case where it will be subject to review and comment;
2. In pending rate cases where the record has been closed, the Board, following an initial decision by the Office of Administrative Law, will reopen the record for the limited purpose of allowing adding the calculation of the CTA, as modified by this Order while providing all parties with the opportunity to comment;
3. The Board directed affected utilities to include a calculation of the CTA, as modified by staff's recommendation, as part of their next base rate case petitions;
4. In order to separately account for Federal Energy Regulatory Commission (FERC) regulated transmission services, the Board directed the EDCs to utilize, when available, the taxable income related to those transmission services; and finally; and



5. When taxable income is not available for the relevant time period, the Board directed the EDCs to use the relative rate base figures for FERC regulated transmission services and distribution services as a proxy figure for FERC transmission services taxable income.

Staff also recommended that any further modifications to the CTA policy should be made by Board Order, in the same manner for previous modifications.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

### **3. CABLE TELEVISION**

There were no items in this category.

### **4. TELECOMMUNICATIONS**

#### **A. Docket No. TO14101098 – In the Matter of the Request for Proposals for the Provision of Telecommunications Telephone Relay Service.**

**John DeLuca, Bureau Chief, Division of Telecommunications**, presented this matter.

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. This matter involved a Request for Proposal (RFP) for the provision of Telecommunications Relay Services (TRS). A TRS functions as a point of translation between hearing and/or speech impaired people who use a teletype (TTY) device or a computer for communications with non-impaired telephone users. The Board has previously approved RFPs for TRS since TRS was first introduced in New Jersey and when the initial and subsequent contracts expired. The contract with the current provider, Sprint, is scheduled to expire on March 31, 2015.

This RFP requests bids from respondents who currently provide CapTel and Traditional TRS services. CapTel is based on the use of specially trained operators who revoice the other parties' words into a computer by using voice recognition technology that delivers a caption to the hard of hearing. In addition to the caption CapTel provides the callers' voice. The service is mostly used by people with less than total hearing loss; it allows them to have "almost real time" captions as well as being able to hear the voice of the person they are talking to. Traditional TRS requires an operator to translate from voice to typed conversation and vice versa, thereby requiring each party to pause after each statement.

Submissions in response to this RFP will be reviewed by an RFP Response Evaluation Committee composed of members of affected departments and agencies together with representative(s) from the Division.

The deaf and hard of hearing community throughout New Jersey will benefit from the continued provision of TRS and persons with partial hearing in particular will benefit from the continued provision of CapTel.

Staff recommended the Board approve this Request for Proposal.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**B. Docket No. TX14040385 – In the Matter of the Petition Seeking Rulemaking and Order Regulating Rates Charged by Global Tel\*Link and Securus for Phone Calls from New Jersey Correctional Facilities.**

**Jake Gertsman, Legal Specialist, Office of Chief Counsel,** presented this matter.

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. On April 30, 2014, the Board received a petition from the Garden State Bar Association et al. (Petitioners) which was amended by the Petitioners on May 15, 2014 to clarify that the petition should be considered a rulemaking request.

The petition requests that the Board “limit the rates, terms, and conditions imposed by intrastate Inmate Calling Service providers to ‘just and reasonable rates’, not to exceed \$0.05 per minute, for incarcerated people, detainees, and their families in both state and county prisons and jails.” The Petitioners also requested that the Board hold regional public hearings to gather further public input.

The Notice of Receipt of the petition was published on June 16, 2014 in the New Jersey Register.

Pursuant to N.J.A.C. 1:30-4.2 the Board is required to act on the petition within 60 days. Staff believes that the complexity of the issue requires further deliberation thus requiring additional time for review.

On June 12, 2014, the Petitioner consented by letter to extend the period for Board deliberation on the petition for rulemaking until October 31, 2014. That Board agreed to the extension at the June 18, 2014 agenda meeting.

On October 2, 2014, the Petitioner consented by letter to further extend the period for Board deliberation to January 31, 2015. Staff recommended the Board agree to the Petitioner’s request to further extend the period of the Board deliberation to January 31, 2015.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**5. WATER**

There were no items in this category.

**6. RELIABILITY & SECURITY**

There were no items in this category.

**7. CUSTOMER ASSISTANCE**

There were no items in this category.

**8. CLEAN ENERGY**

**Scott Hunter, Renewable Energy Program Administrator**, presented these matters.

**A. Docket No. QO14050489 – In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2015; and**

**Docket No. QO14090952 – In the Matter of the Solicitation for Sustainable Biopower Incentives in the Renewable Energy Incentive Program.**

**BACKGROUND AND DISCUSSION:** On June 18, 2014, the Board approved a Fiscal Year 2015 (FY15) funding level of \$9.6 million for renewable energy programs. The Board subsequently approved Staff's FY15 Program Budget recommendation to extend the Fiscal Year 14 program compliance filings and portfolio of New Jersey Clean Energy Program (NJCEP) programs pending additional stakeholder meetings and coordination toward development of revised program descriptions and associated compliance filings. With respect to the FY15 biopower program, the Board approved \$3 million to fund one or more biopower project solicitation(s).

This matter involved seeking Board approval of a \$3 million competitive solicitation aimed at encouraging the development of projects that produce electricity with sustainable biomass. The solicitation invites proposals through December 22, 2014, 5:00 pm, from both the private and public sectors. Through NJCEP, applicants will submit proposals for financial incentives which will be evaluated on the basis of economics, readiness, technology and resiliency.

Biopower is the generation of electricity – along with thermal energy when used in combined heat and power systems – from organic feedstock, such as food waste, sewage sludge, certain types of wood waste and sustainably grown and harvested

energy crops. Energy from waste is an attractive option due to the existing infrastructure to collect waste, the high cost of waste disposal, and the challenges of siting any new landfills in the state. Biomass projects can reduce pollution, lessen dependency on fossil fuels and support local jobs and the State's economy.

Staff recommended the Board:

1. Approve the FY15 The Renewable Energy Incentive Program Sustainable Biopower Incentive Solicitation for immediate public release;
2. Authorize Staff and the Renewable Energy Market Managers to conduct the solicitation process as proposed;
3. Approve the Solicitation Evaluation Criteria and Scoring System;
4. Direct Staff to convene the Evaluation Committee; and
5. Report the results of the solicitation process with recommendations for awards to the Board at a regularly scheduled agenda meeting.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**B. Docket No. QO14050489 – In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2015; and**

**Docket No. QO14090953 – In the Matter of the Solicitation for Energy Storage Incentives in the Renewable Energy Incentive Program.**

**BACKGROUND AND DISCUSSION:** On June 18, 2014, the Board approved a Fiscal Year 2015 (FY15) funding level of \$9.6 million for renewable energy programs. The Board subsequently approved Staff's FY15 Program Budget recommendation to extend the Fiscal Year 14 (FY14) program compliance filings and portfolio of New Jersey Clean Energy Program (NJCEP) programs pending additional stakeholder meetings and coordination toward development of revised program descriptions and associated compliance filings. With respect to the FY15 renewable energy program, the Board approved \$3 million to fund one or more renewable electric storage project solicitation(s).

This matter involved seeking the Board approval of a \$3 million competitive solicitation aimed at encouraging the development of renewable energy storage projects. The solicitation invites proposals through December 8, 2014, 5:00 pm, from both the private and public sectors. Through NJCEP, applicants will submit proposals for financial incentives which will be evaluated on the basis of economics, readiness, technology and resiliency.

Energy Storage technology is aimed at storing electricity generated by renewable sources so it can be used at other times when electric demand peaks, or during power outages.

Staff recommended the Board:

1. Approve the FY15 The Renewable Energy Incentive Program Sustainable Biopower Incentive Solicitation for immediate public release;
2. Authorize Staff and the Renewable Energy Market Managers to conduct the solicitation process as proposed;
3. Approve the Solicitation Evaluation Criteria and Scoring System;
4. Direct Staff to convene the Evaluation Committee; and
5. Report the results of the solicitation process with recommendations for awards to the Board at a regularly scheduled agenda meeting.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**C. Docket No. EG10020126 – In the Matter of the Clean Energy Manufacturing Fund Solicitation – Competitive Award Recommendations:**

**Docket No. QG14101150 – ENER-G Rudox, Inc.**

**Docket No. QG14101151 – SIEL America, Inc.**

**Anne Marie McShea, Marketing & Communications Administrator, Office of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** On November 26, 2012, the Board's Office of Clean Energy (OCE), in collaboration with the New Jersey Economic Development Authority (EDA), as administrator of the Clean Energy Manufacturing Fund (CEMF), issued a Solicitation for the CEMF program which offers an open and rolling application process for funds in support of Class I renewable energy or energy efficiency companies entering or expanding within the manufacturing stage of commercial development. SIEL America, Inc., a manufacturer of grid-tied and photovoltaic inverters, and ENER-G, Inc., a cogeneration/energy efficiency company, each applied for funding under the CEMF program and received a favorable technical review by the OCE. The request for funding was then sent to Clean Technology Advisory Committee, who recommended SIEL America and ENER-G Rudox, Inc. for funding pending full underwriting analysis by EDA.

On June 30, 2014, the Board approved the Fiscal Year 2015 Budget which includes CEMF Funding in the amount of \$8,579,024.08. Total funds awarded may include up to 50% of total project's budgeted costs, not to exceed \$3,300,000 per project for each new program solicitation. The proposed CEMF grant and loan agreements are to further the State's policy of incentivizing renewable energy and energy efficiency. Both companies have a New Jersey presence and will use the funding to expand their operations in support of New Jersey jobs. The technology manufactured by SIEL American and ENER-G will have a positive impact on many of the objectives of the NJDEP Global Warming Response Act as well as New Jersey's Energy Master Plan.

Staff reviewed the underwriting analysis and recommendations for approval by the EDA. Based on that analysis, Staff recommended the Board approve the CEMF funding awards to SIEL America for a \$500,000 loan to manufacture of photovoltaic inverters and to ENER-G Rudox for \$3,300,000 in total funding, in the form of a \$300,000 grant and a \$3,000,000 loan, for the manufacture of Combined Heat and Power (CHP) systems. Staff also recommended that commitment letters be issued to SIEL America, Inc. and ENER-G, Inc. by the Board's OCE Director, in coordination with appropriate EDA staff, and that President Mroz sign the Grant and Loan Funding Agreements. President Mroz is also to review and approve matters within the scope of Memorandum of Understanding between the Board and the EDA dated March 24, 2011.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

**D. Docket No. EO12090832V – In the Matter of the Implementation of L.2012, C.24, The Solar Act of 2012; and**

**Docket No. EO12090880V – In the Matter of the Implementation of L.2012, C.24, N.J.S.A. 48:3-87 (q) (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Request for Approval of Grid-Supply Solar Electric Power Generation Pursuant to Subsection(s) – Additional Application Criteria – See Executive Session.**

**Scott Hunter, Renewable Energy Program Administrator and Rachel Boylan, Legal Specialist, Counsel's Office,** presented this matter.

**BACKGROUND AND DISCUSSION:** Commissioner Chivukula recused himself from this matter. This matter was initially discussed in Executive Session pursuant to the attorney/client privilege exception to the Open Public Meetings Act.

In its May 10, 2013, Order, the Board deferred a decision on 20 applications for proposed solar electric generation facilities seeking eligibility to earn Solar Renewable Energy Certificates (SRECs) pursuant to the Solar Act's Subsection (s), specific to projects proposed on land devoted to agriculture.

For certain provisions of the Act requiring public input, including Subsection (s), Staff held public hearings with such participants as Rate Counsel, environmentalists, solar industry representatives and landfill developers, issuing a Subsection (s) application due December 17, 2012. The 57 applications received from 25 developers for approximately 640 MWdc in projects were evaluated based statutory compliance and progress toward completion. After Staff field visits to 12 advanced projects, 3 found at or near completion received Board approval; 7 were denied for non-compliance with statutory requirements; 27 more were denied for lack of progress and lack of all final unappealable federal, state and local approvals. The remaining 20 applications were not sufficiently advanced to

approve as eligible for SRECs. However, the applicants for these projects claimed to have all final unappealable, federal, state and local approvals.

In August 2013 and April 2014, Staff issued straw proposals containing supplementary application criteria and milestone reporting requirements. Through comments received and stakeholder proceedings in this matter before the Board, Staff made key recommendations including: the deferred subsection (s) projects shall be evaluated using such criteria as: impact of the SRECs forecasted on the SREC market and upon solar development in the State; impact upon the preservation of open space, with special attention to the State's farmland preservation programs; and economic benefit, in particular the creation of jobs. Staff also recommended the Board consider the effect of solar development upon the local community(ies) and support or lack of support from municipal bodies. Staff further recommended that applicants be directed to submit supplemental information within 30 days of the Order, so that the Board can review Staff's final recommendations by the February 2015 Agenda. Staff also recommended certain milestones for any deferred project which includes all equipment installed, system testing complete and requests sent to the electric distribution company to test and authorize operation of the system by June 1, 2016.

Commissioner Fiordaliso made a motion, second by Commissioner Holden, that all the criteria reported at the agenda meeting be included in the Order and that no application be required so that the process is expedited. Commissioner Holden added the form in which the materials are to be submitted should be spelled out in the Order. President Mroz added that the information be provided in 30 days of the effective date of the Order, then the applicant cure any deficiencies within 15 days after receiving notification from Staff regarding deficiencies. Commissioners Fiordaliso and Holden amended the motion and the second to include these changes.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as amended from the Bench.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>

**E. Non-docketed Matter – In the Matter of Spano Partners Holdings, Inc., EffiSolar Development LLC, and EffiSolar Energy Corporation v. New Jersey Board of Public Utilities – Superior Court Docket No. MON-C-168-14 – See Executive Session.**

This matter was discussed in executive session pursuant to attorney-client privilege exception to the Open Public Meetings Act. The Board will make the contents of its discussion of the above matter public at the earliest appropriate time.

## 9. MISCELLANEOUS

### A. Docket No. QO14060626 – In the Matter of the New Jersey Energy Resilience Bank – Program Guide Challenge Process and Budget Extension; and

#### Docket No. QO14091018 – In the Matter of the New Jersey Energy Resilience Bank – Water and Wastewater Treatment Facilities Financial Product.

Thomas N. Walker, P.E., CCP, Deputy Director, New Jersey Energy Resilience Bank, presented this matter.

**BACKGROUND AND DISCUSSION:** As a follow up to the September 30, 2014 agenda meeting, the New Jersey Energy Resilience Bank (ERB) Staff was required to submit an appeal process (Challenge), a 2014/2015 budget and a sample application. The Challenge process was developed for a second review of applications that were deemed deficient or ineligible based on staff review. It gives the applicant an option to challenge that decision.

The proposed budget was developed based on the available information at the time and assumptions/projections of anticipated projects. The overall ERB budget for the 2014/2015 year was estimated at \$25,229,255. Updates will be provided to the Board as the program proceeds.

The Board was presented with three additional items that developed after the September 30, 2014 meeting. Additional comments from the August 27, 2014 stakeholder process were reviewed and responses were drafted. They were primarily centered on the use and analysis of private funding and Public Private Partnerships. After careful consideration, no changes to the Guide or Product resulted.

Revisions were made to the New Jersey Energy Resilience Bank Grant and Loan Financing Program Guide (Guide) and Financing Program (Product) for the Water and Waste Water Treatment Facilities after adoption of the Guide and Product by the Board on September 30, 2014. Three revisions were made pertaining to an New Jersey Department of Environmental Protection / the National Oceanic and Atmospheric Administration's reference for sea level rise, clarification on ineligible costs under the program for project development work, and a clarification of the order in which applications are reviewed. And finally, ERB Staff conducted a second review of the comments and responses from the August 27, 2014 stakeholder meeting and determined that additional investigation and study was required into the current rules governing emergency generators and the current utility franchises. Staff requested permission to initiate that stakeholder process.

Staff recommended the Board approve the Challenge process and Budget. Staff also recommended the Board adopt the modifications to the Guide and Product made after the September 30, 2014, approval. Additionally, Staff recommended that the Board acknowledge the Application for the program and the additional comments/response from the August 27, 2014, stakeholder meeting. Finally, Staff recommended the Board approve implementing a stakeholder process to review emergency generator interconnection and utility franchise rights.



**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

<b>Roll Call Vote:</b>	<b>President Mroz</b>	<b>Aye</b>
	<b>Commissioner Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>

## **EXECUTIVE SESSION**

After appropriate motion, the following matters, which involved pending litigation attorney-client privilege exceptions to the Open Public Meetings Act was discussed in Executive Session.

### **1. AUDITS**

**A. Docket No. ES14091015 – In the Matter of N.J.S.A. 48:3-78b, N.J.S.A. 48:3-79b, N.J.A.C. 14:4-5.6, N.J.A.C. 14:4-5.7 and N.J.A.C. 14:4-5.10 – Renewal Applications for Electric Power and Gas Suppliers.**

**Discussion:** President Richard S. Mroz and Commissioner Upendra J. Chivukula recused themselves from this matter due to a potential conflict of interest and were not present during the discussion of this item.

Executive Director Paul Flanagan indicated that nearly a fifth of the third party suppliers (TPS) did not follow the Board's rules concerning filing renewal applications. Staff will begin strictly enforcing the filing requirements as of January 1, 2015, but is asking the Board to allow a grace period during which the TPS may submit filings or bring them up to date. Such a grace period will foster competition and help prevent disruption to the marketplace and consumers.

Deputy Attorney General Caroline Vachier advised the Board concerning such a grace period.

### **8. CLEAN ENERGY**

**D. Docket No. EO12090832V – In the Matter of the Implementation of L.2012, C.24, The Solar Act of 2012; and**

**Docket No. EO12090880V – In the Matter of the Implementation of L.2012, C. 24, N.J.S.A. 48:3-87 (q) (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Request for Approval of Grid-Supply Solar Electric Power Generation Pursuant to Subsection(s) – Additional Application Criteria.**

**Discussion:** Commissioner Upendra J. Chivukula recused himself from this matter due to a potential conflict of interest and was not present during the discussion of this item.

Legal Specialist Rachel Boylan and Scott Hunter, Renewable Energy Program Administrator, informed the Board this matter pertains to the remaining 20 applications under Subsection (s) on which the Board deferred action. After significant public input, Staff is recommending specific criteria for the deferred Subsection (s) applicants to meet, with a due date 30 days after the supplemental application is posted.

Staff prefers that a separate application be developed to help provide consistency in the responses received, which Staff believes will in turn facilitate review of the applications. Deputy Attorney General (DAG) Babette Tenzer indicated the Board's Order, including detailed submission criteria, could serve the same purpose and obviate the need for Staff to develop and post a separate application, and expedite the time line for review.

The Commissioners asked Staff and the DAG to attempt to reach a consensus on the process to be used, and present that in open session for the Board's consideration, along with the proposed categories of information to be included in the filing and the criteria to be applied in the evaluation process on which Staff and the DAG agree.

**E. Non-docketed Matter – In the Matter of Spano Partners Holdings, Inc., EffiSolar Development LLC, and EffiSolar Energy Corporation v. New Jersey Board of Public Utilities – Superior Court Docket No. MON-C-168-14.**

**Discussion:** Commissioner Upendra J. Chivukula recused himself from this matter due to a potential conflict of interest and was not present during the discussion of this item.

Deputy Attorney General Babette Tenzer updated the Board as to the status of this case. On October 3, 2014, the Board was served with an order to show cause and a complaint filed in the Law Division in Mounmouth County by some of the developers of the deferred Subsection s projects that would be subject to the process discussed above. The lawsuit seeks to have the court enforce what the developers claim is a settlement reached between the Board and the developers which would approve approximately 91 Mw of the deferred Subsection s projects as eligible to generate SRECs. A hearing is scheduled for Wednesday, October 29, 2014 where the judge is being asked to enjoin the Board from taking action on the deferred Subsection s applications "that would prevent the consummation of the Settlement that Plaintiffs contend has been agreed to by the BPU," and setting an expedited trial on the issue of whether there is a settlement.

DAG Tenzer indicated that she had moved for dismissal of the matter.

After appropriate motion, the Board reconvened to Open Session.

There being no further business before the Board, the meeting was adjourned.



DATE: December 17, 2014

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KRISTI IZZO  
BOARD SECRETARY