



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

**MINUTES OF THE REGULAR MEETING OF THE
BOARD OF PUBLIC UTILITIES**

A Regular Board meeting of the Board of Public Utilities was held on February 11, 2015, at the State House Annex, Committee Room 11, 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 Kenneth J. Sheehan, Secretary of the Board, carried out the duties of the Secretary.

It was announced that the next regular Board Meeting would be held on March 18, 2015 at the State House Annex, Committee Room 11, 125 West State Street, Trenton, New Jersey 08625.

CONSENT AGENDA

I. AUDITS

A. Docket No. TE14121410 – In the Matter of the Petition of Hammer Fiber Optic Investments LTD for Approval to Provide Facilities-Based and Resold Local Exchange and Interexchange Telecommunications Services.

BACKGROUND: On December 9, 2014, Hammer Fiber Optic Investments Ltd. (Petitioner) filed a Verified Petition with the Board for authority to provide facilities-based and resold local exchange and interexchange telecommunications services in the State of New Jersey.

The Petitioner asserted that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. The Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices, and will permit customers to achieve increased efficiencies and cost savings.

By letter dated January 6, 2015, the New Jersey Division of Rate Counsel submitted comments with the Board providing that, based upon its review, "Rate Counsel is satisfied that the Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity."

After review, Staff recommended the Board approve the Petitioner's request for authority to provide local exchange and interexchange telecommunications services in the State of New Jersey.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

B. Energy Agent, Private Aggregator and/or Energy Consultant Initial

Registrations

| | | |
|-------------|--|--------------|
| EE14080923L | KWH Savings, LLC | I – EA |
| EE14121390L | M&L Service Providers, LLC d/b/a Diamond Energy | I – EA |
| EE14080903L | MBA Energy Group | I – EA |
| EE14060569L | NRG Kiosk, LLC | I – EA/PA/EC |
| GE14060570L | d/b/a Power Kiosk, LLC | |
| EE14070737L | Customer Acquisition Specialists of America, Inc. | I – EA/EC |
| GE14070738L | | |
| EE14070732L | Consumer Energy Solutions, Inc. | I – EA/EC |
| GE15010094L | | |

Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations

EE14080902L Power Management Co., LLC R – EA
d/b/a PMC Lightsavers Limited Liability Co.

EE14070657L Stanwich Energy Advisors, LLC R – EA
EE14070730L Premier Energy Group, LLC R – EA

Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations

EE14070733L Progressive Energy Consultants, LLC R – EA
EE14070731L Energy Edge Consulting, LLC R – EA
EE14070739L NJ Green Energy Consulting, LLC R – EA/PA
GE14070740L
EE14060600L Secure Energy Solutions, LLC R – EA/PA
GE14060601L
EE14070767L Unified Energy Services, LLC R – EA/EC
GE14070768L
EE14070669L Acclaim Energy, Ltd. R – EA/PA/EC
GE14070670L d/b/a Acclaim Energy Advisors

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 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 or registrations 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 initial registrations as an energy agent, private aggregator and/or energy consultant for one year to:

- KWH Savings LLC
- M&L Service Providers LLC d/b/a Diamond Energy
- MBA Energy Group
- NRG Kiosk LLC d/b/a Power Kiosk LLC
- Customer Acquisition Specialists of America, Inc.
- Consumer Energy Solutions, Inc.

Staff recommended that the Board issue renewal registrations as an energy agent, private aggregator and/or energy consultant for one year to:

- Power Management Co., LLC d/b/a PMC Lightsavers Limited Liability Company
- Stanwich Energy Advisors, LLC
- Premier Energy Group, LLC
- Progressive Energy Consultants, LLC
- Energy Edge Consulting, LLC
- NJ Green Energy Consulting LLC

- Secure Energy Solutions, LLC
- Unified Energy Services, LLC
- Acclaim Energy, Ltd. d/b/a Acclaim Energy Advisors

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

II. ENERGY

A. Docket No. ER15010003 – In the Matter of the Federal Energy Items for 2015 – FERC Docket No. ER15-738-000 – PJM Interconnection, LLC – Motion for Intervention.

BACKGROUND: On December 24, 2014, PJM made a filing with the Federal Energy Regulatory Commission (FERC) requesting a one-time waiver of a tariff provision that would require PJM to offer to release approximately 2,000 megawatts of capacity previously committed for the 2015/2016 delivery year. PJM stated that recent developments have raised concerns about the overall reliability of that capacity portfolio.

Staff recommended the Board seek ratification of the intervention motion filed with the FERC.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

B. Docket No. ER15010003 – In the Matter of the Federal Energy Items for 2015 – FERC Docket No. ER15-739-000 – PJM Interconnection, LLC – Motion for Intervention.

BACKGROUND: On December 24, 2014, PJM made a filing with the Federal Energy Regulatory Commission (FERC) proposing revisions to a section of its tariff to permit PJM to enter into, and recover the costs of, capacity agreements secured outside of the PJM Reliability Pricing Model (RPM) auctions for the specific purpose of alleviating PJM's resource adequacy concerns regarding the portfolio of resources committed for the 2015/2016 delivery year. Staff recommended the Board seek ratification of the intervention motion filed with the FERC.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

C. Docket No. ER15010003 – In the Matter of the Federal Energy Items for 2015 – FERC Docket No. ER15-739-000 – PJM Interconnection, LLC – Joint Answer.

BACKGROUND: On January 13, 2015, the Board joined other public interest parties, the Sustainable Federal Energy Regulatory Commission project and the Natural Resources Defense Council, to file a joint Answer in support of the PJM Power Providers Group’s (P3) Motion for Extension of Comment Deadline and PJM Industrial Customer Coalition’s Answer in Support of P3’s Motion for Extension of Comment Deadline.

The Board sought to intervene on January 8, 2015, opposing PJM’s proposed revisions because it fails to set out a specific compensation for securing these resources and is likely to result in unjust and unreasonable rates.

Staff recommended the Board support P3’s Motion that will permit parties to review and analyze PJM’s filings and more adequately form their initial positions on how the various parts of the proposal may operate and interact.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

III. CABLE TELEVISION

A. Docket No. CE14091075 – In the Matter of the Petition of CSC TKR, LLC d/b/a Cablevision of Raritan Valley for a Renewal Certificate of Approval to Continue to Operate and Maintain a Cable Television System in the Township of Bedminster, County of Somerset, State of New Jersey.

BACKGROUND: Commissioner Chivukula recused himself from this matter. On December 2, 2013, the Township of Bedminster (Township) granted CSC TKR, LLC d/b/a Cablevision of Raritan Valley (Cablevision) renewal municipal consent for a term of 15 years from the date of issuance of the Renewal Certificate of Approval. On March 7, 2014, Cablevision accepted the terms and conditions of the ordinance, and on September 30, 2014, Cablevision filed a petition with the Board for its Renewal Certificate of Approval for the Township.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the Township. This Certificate shall expire on February 27, 2030.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

B. Docket No. CE14111272 – 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 Borough of Mountainside, County of Union, State of New Jersey.

BACKGROUND: Commissioner Chivukula recused himself from this matter. On September 16, 2014, the Borough of Mountainside (Borough) granted Comcast of New Jersey II, LLC (Comcast) renewal municipal consent for a term of 15 years. On September 24, 2014, Comcast accepted the terms and conditions of the ordinance, and on November 5, 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 for the Borough. This Certificate shall expire on October 7, 2029.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

C. Docket No. CE14010112 – In the Matter of the Petition of Comcast of Garden State, L.P. for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of North Hanover, County of Burlington, State of New Jersey.

BACKGROUND: Commissioner Chivukula recused himself from this matter. On December 5, 2013, the Township of North Hanover (Township) adopted an ordinance granting renewal municipal consent to Comcast of Garden State, L.P. (Comcast). On December 16, 2013, Comcast formally accepted the terms and conditions of the ordinance, and on January 30, 2014 Comcast filed with the Board for a renewal of its Certificate of Approval for the Township.

After review, Staff recommended approval of the proposed Renewal Certificate of Approval for the Township. This Certificate shall expire June 12, 2027.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

D. Docket No. CE14020156 – In the Matter of the Petition of Comcast of Gloucester 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 Westville, County of Gloucester, State of New Jersey.

BACKGROUND: Commissioner Chivukula recused himself from this matter. On October 7, 2013, the Borough of Westville (Borough) adopted an ordinance granting renewal municipal consent to Comcast of Gloucester County, LLC (Comcast). On November 25, 2013, Comcast formally accepted the terms and conditions of the ordinance, and on February 11, 2014, 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 for the Borough. This Certificate shall expire January 3, 2029.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

IV. TELECOMMUNICATIONS

A. Docket No. TM14121441 – In the Matter of the Joint Petition of Compass Capital Inc., Compass Atlantic Inc., Teri L. O’Flaherty, Matthew S. O’Flaherty and Stacy Hergenrader for Authorization for Transfer of Control of Selectel, Inc.

BACKGROUND: On December 24, 2014, Compass Capital Inc., Compass Atlantic Inc., Matthew S. O’Flaherty, Teri L. O’Flaherty, and Stacy Hergenrader (collectively, Petitioners) filed a joint petition with the Board requesting approval of a change of control as the result of a transfer of stock of Selectel Inc. (Selectel), and a related loan transaction (Transaction).

The Petitioners also requested Board approval for the issuance of a note by Selectel as required by N.J.S.A. 48:3-10. Compass will provide debt financing to Selectel in the form of a \$2 million line of credit. The Petitioners also requested that the Board determine that Mass Migration Rules do not apply to this Transaction. Following the proposed transfer, Selectel will continue to offer the same services in New Jersey at the same rates, terms, and conditions.

Staff recommended approval of the Petitioner’s request. Staff also agreed with the Petitioners that the Mass Migration rules do not apply to this transaction as customers will not be migrating, and therefore, the waiver request for customer notification is justified.

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

Roll Call Vote: **President Mroz** **Aye**
 Commissioner Fiordaliso **Aye**
 Commissioner Holden **Aye**
 Commissioner Solomon **Aye**
 Commissioner Chivukula **Aye**

V. WATER

A. Docket No. WR15010035 – In the Matter of the Petition of New Jersey American Water Company, Inc. for Approval of Increased Tariff Rates and Charges for Water and Sewer Service, Change in Depreciation Rates and Other Tariff Modifications.

BACKGROUND: President Mroz and Commissioner Chivukula recused themselves from this matter. On January 14, 2015, New Jersey American Water Company (Company) filed a letter with the Board stating that the rates-effective date set forth in the Company’s petition was revised from February 8, 2015 to March 18, 2015. The effective date of the proposed tariff included within the Company’s rate case filing is similarly revised from February 8, 2015 to March 18, 2015.

This matter was transmitted to the Office of Administrative Law for hearing(s). Because this proceeding will not be completed by February 8, 2015, an Order suspending the rates until June 8, 2015, is warranted. Therefore, Staff recommended the Board issue an Order suspending the rates until June 8, 2015.

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

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

VI. RELIABILITY & SECURITY

There were no items in this category.

VII. CUSTOMER ASSISTANCE

A. Docket Nos. BPU EC13080722U and OAL PUC 13473-13 – In the Matter of Karen Robinson, Petitioner v. Public Service Electric and Gas Company, Respondent – OAL Request for Extensions.

BACKGROUND: Commissioner Chivukula recused himself from this matter. The record in this matter closed on August 11, 2014. By previous orders of extension, the due date for issuing an initial decision was extended until February 2, 2015. Administrative Law Judge Elia A. Pelios requested additional time to complete the initial decision due to a voluminous caseload.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended the time for filing the initial decision be extended until March

19, 2015.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

A. Approval of the Minutes of the January 21, 2015 Agenda Meeting.

BACKGROUND: Staff presented the minutes of January 21, 2015 Board meeting minutes and recommended that they be accepted.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

AGENDA

1. AUDITS

A. Non-docketed Matter – In the Matter of the Request for Proposal 15-X-23298 Designation of a System Operator for New Jersey’s One-Call Damage Prevention System.

James P. Giuliano, Director, Division of Reliability and Security, presented this matter.

BACKGROUND AND DISCUSSION: The Division of Audits and the Division of Reliability and Security, with assistance from the Deputy Attorney General’s office, Counsel’s office, and Department of Treasury’s Bureau of Purchase and Property, have prepared a Request for Proposal (RFP) to solicit bid proposals for a contractor to operate New Jersey’s One-Call Damage Prevention System. The RFP seeks a contractor for a five year term, commencing March 1, 2016 through February 28, 2021. The existing contract expires on February 29, 2016.

Staff had the final version of the RFP approved by the Department of Treasury’s Bureau of Purchase and Property. The RFP is to be published in the New Jersey Register as required by N.J.A.C. 14:2-2.2 as early as March 2015.

Staff recommended the Board authorize the publication of the RFP in the New Jersey Register pursuant to N.J.A.C. 14:2-2.2, and release the matter to the public through the Treasury process. The RFP will also be listed on the Board’s website with a link to Treasury’s website.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

2. ENERGY

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

A. Docket Nos. BPU GR14040375 and OAL PUC 16085-14 – In the Matter of the Petition of Public Service Electric and Gas Company to Modify Its Manufactured Gas Plant Remediation Component Within Its Electric Societal Benefits Charge and Its Gas Societal Benefits Charge; During the Remediation Adjustment Charge 21 Period, August 1, 2012 to July 31, 2013.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On April 18, 2014, Public Service Electric and Gas Company (PSE&G or Company) filed a petition (April Petition) with the Board for an Order finding that

PSE&G's Manufactured Gas Plant remediation work performed during the Remediation Adjustment Clause (RAC) period August 1, 2012 through July 31, 2013, costing \$65.896 million, was reasonable and appropriate for recovery. Although a slight decrease in the gas and electric RAC rates was justified in support of a reduced (gas + electric) revenue requirement of \$1.49 million, the Company posited to maintain the existing gas and electric RAC rates to partially offset the anticipated RAC 22 revenue requirement increase of \$4.5 million.

The Parties reached a Stipulation of Settlement (Settlement) in this matter, and on January 8, 2015, Administrative Law Judge Cookson issued her Initial Decision approving the Settlement. The Settlement provides for the continuation of the existing RAC rates, and it also resolves an issue concerning the transfer of certain properties providing that revenues of such transfer be credited to ratepayers

Staff recommended the Board approve the Initial Decision and the Settlement in its entirety.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

B. Docket No. GR13090839 – In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas to Revise the Remediation Adjustment Clause Component of Its Societal Benefits Charge Rate.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On September 13, 2013, Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas (the Company) filed its annual petition with the Board requesting approval of its Remediation Adjustment Clause (RAC) rate. The Company, Rate Counsel and Staff executed a Stipulation that recommended approval of a 3.17 cents per therm RAC rate inclusive of all applicable taxes, an increase from 2.29 cents per therm. Approval of the 3.17 cents per therm RAC rate result in an annual revenue increase of \$3.9 million.

Staff recommended the Board approve the 3.17 cents per therm RAC rate.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

C. Docket Nos. BPU GR14070755 and OAL PUC 16105-14 – In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas to (1) Revise Its Weather Normalization Clause Rate; (2) Revise the Clean Energy Program Component of Its Societal Benefits Charge Rate; and (3) Revise Its On-System Margin Sharing Credit.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company or (the Company) submitted its annual filing to update its rates pertaining to its Weather Normalization Clause (WNC), the Clean Energy Program (CEP) rate component of the Societal Benefits Charge, and it's On-System Margin Sharing Credit (OSMC).

The collective annual bill impact resulting from approval of the proposed rates on a typical residential gas heating customer using 1000 therms is a decrease of \$43.54, from \$1,027.10 to \$983.56 (4.2%).

The proposed WNC credit rate of \$0.0254 per therm reflects the return to ratepayers of over-recovered revenues of \$7.127 million tied to the 2014 Winter Period which was 419 degree days (8.9%) colder than normal, and the return to ratepayers of the prior year's over-recovery of \$0.489 million.

The proposed CEP rate of 2.44 cents per therm is designed to recover an estimated \$6.323 million in reduced program costs primarily involving administering energy efficiency programs and payments made to renewable program vendors.

The OSMC provides for 80% of the margins generated from certain on-system non-firm sales and transportation services to be credited to firm customers. The proposed increased credit is designed to decrease the Company's revenues by an estimated \$1.713 million.

The Company, Board Staff and the Division of Rate Counsel (collectively, the Parties) engaged in discovery and reached a Stipulation on January 6, 2015 resolving all issues in this proceeding.

On January 22, 2015, Administrative Law Judge Moss issued her Initial Decision approving the Stipulation which fully disposes of all issues in controversy and is consistent with the law.

Staff recommended the Board to approve the Initial Decision and Stipulation of the Parties.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

Paul Flanagan, Executive Director, presented these matters.

D. Docket No. ER15010003 – In the Matter of the Federal Energy Items for 2015 – FERC Docket No. ER15-739-000 – PJM Interconnection, LLC – Joint Protest.

BACKGROUND AND DISCUSSION: This matter involved a Board authorization for joining a protest to the Federal Energy Regulatory Commission by the public interest organizations, of which the Board is a member, to reject PJM's proposal to revise its open access tariff that would permit PJM to enter into and recover the cost of capacity agreements secured outside of the reliability pricing model auctions.

The reasons for the filing are: (1) the proposal lacks standards in criteria; and (2) the proposal is unnecessary. The Electric Power Supply Association decision of the DC Circuit does not apply to markets and PJM had already taken steps to reduce the repetition of another potential polar vortex and other capacity resources will be available. The protest was signed by Deputy Attorney General David Wand on January 20, 2015. Staff recommended the Board ratify that action.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

E. Docket No. ER15010003 – In the Matter of the Federal Energy Items for 2015 – FERC Docket Nos. ER15-623-000; EL15-29-000 (Not Consolidated) – PJM Interconnection, LLC – Joint Protest.

BACKGROUND AND DISCUSSION: This matter involved a Board authorization for joining a protest of the joint consumer representatives, which the Board is a member of, to the Federal Energy Regulatory Commission regarding PJM's, quote, reforms to the reliability pricing market, and related rules in PJM's open access transmission tariff, and reliability assurance agreement among the Load Serving Entities.

The basis for the protest is that the comprehensive overhaul of the reliability pricing market is not shown to be necessary, just, or reasonable. Therefore, Staff recommended the Board that it should join the protest recommending that PJM should resume its stakeholder discussions or adopt recommendations included in this protest to reform the capacity performance proposal. The protest was signed by Deputy Attorney General David Wand on January 20, 2015, and Staff recommended the Board ratify that action.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

F. Docket Nos. BPU ER12111052 and OAL PUC 16310-12 – In the Matter of the Verified Petition of Jersey Central Power & Light Company for Review and Approval of Increases in and Other Adjustments to Its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith; and for Approval of an Accelerated Reliability Enhancement Program (2012 Base Rate Filing).

Bethany Rocque-Romaine, Office of the Chief Counsel, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. The Initial Decision of Administrative Law Judge Richard McGill in the Jersey Central Power & Light Company (JCP&L) 2012 Base Rate Case was received by the Board on January 9, 2015; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on February 23, 2015.

The Initial Decision required JCP&L to file revised tariff sheets within ten days, even though under N.J.A.C. 1:1-18.4 exceptions to that decision were due within thirteen days from the date of mailing. Accordingly, all exceptions were due on or before January 22, 2015. By correspondence dated January 16, 2015, Board staff requested a two week extension of the time to file exceptions to allow Board staff, and the other parties, to complete their review of the Initial Decision and revised tariff sheets prior to the filing of exceptions. By Order dated January 21, 2015, the Board granted an extension of the time to file exceptions to February 5, 2015, and an extension for the filing of replies to February 19, 2015. Additionally, the Board directed Staff to circulate a revised Consolidated Tax Adjustment (CTA) calculation for comment by the parties during this period.

Accordingly, prior to the date the Final Decision is due, Staff requested an additional 45-day extension of time for issuing the Final Decision to provide sufficient time to adequately review the voluminous record in this matter including the exceptions and replies, and the additional comments from the parties on the revised CTA calculation circulated by Staff.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until April 9, 2015.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

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

G. Docket No. GR15010090 – In the Matter of the Petition of South Jersey Gas Company for Approval to Continue Its Energy Efficiency Programs and Energy Efficiency Tracker Pursuant to N.J.S.A. 48:3-98.1.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On January 20, 2015, South Jersey Gas Company (SJG) filed a petition with the Board seeking approval to continue the Energy Efficiency Programs (EEPs) for a three year period commencing July 1, 2015 with a total budget of approximately \$56 million. SJG also sought approval to continue the 4 existing EEPs as they currently exist, with one modification to the repayment term for the Commercial Customer Direct Install Program. In addition, SJG requested approval to implement a new Social Marketing and Education Program. SJG proposed to recover costs associated with the EEPs through the Energy Efficiency Tracker set forth in Rider N of the Company's tariff.

Staff recommended the Board retain this matter for hearing at the Board, and designate Commissioner Solomon as Presiding Officer for proceedings on this matter, delegating the authority to grant a single extension of the review period, if requested. This would avoid delays in processing the matter, including the approval of a schedule. Staff further recommended the Board direct any entities seeking to intervene in this matter to file the appropriate application with the Board by February 27, 2015.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

H. Docket No. GO14121412 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval of the Extension of Energy Efficiency Programs and the Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1.

BACKGROUND AND DISCUSSION: On December 17, 2014, New Jersey Natural Gas (NJNG or Company) filed a petition with the Board seeking approval to continue, with modifications, the current energy-efficiency programs, and the no-interest on-bill-repayment-program offered in the NJNG SAVEGREEN Project over a three year period beginning no later than July 2015. The Company is not proposing any new programs in this filing.

The total proposed gross investment for these programs is \$127.95 million. The Company proposed to recover the costs through the current Rider F in NJNG's tariff, the Board approved mechanism for cost recovery for the current program.

Staff recommended the Board retain this matter for hearing at the Board, and designate Commissioner Chivukula as Presiding Officer for proceedings on this matter, delegating the authority to grant a single extension of the review period, if requested. This would avoid delays in processing the matter, including the approval of a schedule. Staff further recommended the Board direct any entities seeking to intervene in this matter to file the appropriate application with the Board by February 27, 2015.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

I. Docket No. EX15010033 – In the Matter of the New Jersey Administrative Code 14:5 – Electric Services – Proposed Readoption with Amendments.

John Masiello, Division of Energy, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. Hurricanes Irene and Sandy and the October 2011 snowstorm have highlighted the fact that steps need to be taken to enhance the reliability of New Jersey's electric distribution system during periods of exceptional weather. In the aftermath of these storms, the Board took a wide range of action to accomplish this. Overall, Staff believed that these amendments are another important part of the process. The proposed amendments to Chapter 5 are the result of an extensive stakeholder process to determine the best way to move forward in a post-Sandy era. The changes are intended to result in a more robust electric distribution system, both during periods of exceptional weather, and on a day-to-day basis. Additionally, these amendments also serve to memorialize the directions in the Board's February 20, 2013 Order, I/M/O the Board's Initiative to Revise Reporting Requirements and Improve Reliability Programs by the Electric Distribution Companies (EDCs) Operating in New Jersey, that delineated many of the changes to Chapter 5 with regards to reporting requirements and Hazard Tree tracking.

The proposed modifications to the rules will enhance the ability to track potential and/or realized problem areas within the electric distribution system, and to have the EDCs address these areas and improve system-wide reliability. The additional reporting requirements will aid in system evaluation and identification of high outage areas or equipment problems, help identify outage and fault catalysts, and allow Board Staff to better understand the current state of the electric distribution systems and infrastructure, as well as identify issues that the EDCs and Board should address. The additional Vegetation Management requirements will also serve to aid in system performance by mitigating tree threats.

Staff recommended the Board approve posting the rule readoption with amendments to the New Jersey Register.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

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

J. Docket No. ER14121414 – In the Matter of the Provision of Basic Generation Service and Compliance Tariff Filing Reflecting Changes to Schedule 12 Charges in PJM Open Access Transmission Tariff – Jersey Central Power & Light Company, Atlantic City Electric Company, Public Service Electric and Gas Company and Rockland Electric Company December 19, 2014 Filing.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On December 19, 2014, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, (PSE&G) and Rockland Electric Company (collectively, the EDCs) filed a joint petition with the Board requesting recovery of Federal Energy Regulatory Commission (FERC) approved changes in firm transmission service related charges.

The EDCs' proposed tariff changes reflect changes to the Basic Generation Service (BGS) Residential/Small Commercial Pricing (BGS-RSCP) and Commercial and Industrial Energy Pricing (BGS-CIEP) rates to customers resulting from changes to the PJM Open Access Transmission Tariff (OATT) made in response to: (i) the annual formula rate update filing made by Potomac-Appalachian Transmission Highline, LLC (PATH) in FERC Docket No. ER-08-386-000; (ii) the annual formula rate update filing made by Virginia Electric Power Company (VEPCo) in FERC Docket No. ER08-92-000; and (iii) the annual formula rate update filing made by PSE&G in FERC Docket No. ER09-1257-000. The EDCs requested that the changes become effective on January 1, 2015.

The EDCs also requested authorization to compensate BGS suppliers for the changes to the OATT resulting from the implementation of the PATH, PSE&G, and VEPCo project annual formula updates subject to the terms and conditions of the applicable Supplier Master Agreement(s). Any difference between the payments to BGS suppliers and charges to customers would flow through each EDC's BGS Reconciliation Charge.

Staff recommended the Board issue an order accepting the proposed tariff changes and approving implementation of changes to the EDCs' retail transmission rates to be consistent with OATT tariff changes as filed with and approved by FERC, effective for service on March 1, 2015. Staff further recommended approval of the EDCs' request that the affected BGS suppliers receive the appropriate compensation for the rate adjustment(s) subject to the terms and conditions of the appropriate BGS-FP and BGS-CIEP Supplier Master Agreement(s).

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

K. Docket No. ER14091074 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Electric Base Rate Adjustments Pursuant to the Energy Strong Program.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On September 30, 2014 Public Service Electric and Gas Company (Company) filed a Petition with the Board seeking approval for electric base rate changes tied to capital investments for cost associated with the Company’s Electric-Energy Strong (ES) Program. In order to effectuate a timely cost recovery process for the Electric-ES Program investments, the Board ruled that:

- 1) The Company is allowed provisional base rate recovery on expenditures related to facilities that have been placed in service. Expenditures will be subject to prudence review in the base rate case that the Company committed to filing by November 1, 2017; and
- 2) There is no deferred cost recovery allowed so that the Company is not permitted to book returns between the time the plant goes in service and the rates go into effect. Because of this, the Board deemed it appropriate to include rate relief on a more frequent basis. Base electric rates are to be adjusted on a semi-annual basis beginning March 1, 2015.

On January 16, 2015, the Company provided schedules reflecting actual expenditures through November 30, 2014.

On January 30, 2015, the Company, Board Staff and Rate Counsel (the Parties) agreed to a settlement that allows the Company to provisionally recover a return of \$1,143 million on Electric-ES Program capital investment costs realized through November 30, 2014.

Staff recommended the Board approve the Settlement of the Parties.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

L. Docket No. EM14060581 – In the Matter of the Joint Petition of the Merger of Exelon Corporation and Pepco Holdings, Inc.

Paul Flanagan, Executive Director and Mark C. Beyer, Chief Economist, presented this matter.

BACKGROUND AND DISCUSSION: On June 18, 2014, Exelon Corporation (Exelon) and its subsidiaries, and PEPCO Holdings, Inc. (PHI) and its subsidiaries, which include Atlantic Electric Company (ACE), filed a joint petition with the Board regarding the merger between Exelon and PHI. On July 23, 2014, the Board designated Commissioner Fiordaliso to act as the presiding officer. Other parties to the matter included New Jersey Division of Rate Counsel (Rate Counsel), a number of Public Service Electric and Gas (PSE&G) companies, Monitoring Analytics, which is the

independent market monitor, NRG Energy (NRG), Mid-Atlantic Renewable Energy Coalition (MAREC), and the Independent Energy Producers of New Jersey. Participants in this matter are Rockland Electric and the Clean Energy Council.

Public hearings were held on October 15, 2014 in Mays Landing. At the public hearing no one opposed the merger. Testimony was filed by the Company. Direct testimony was filed with the Petition on June 18, 2015. The Interveners filed their direct testimony on November 14, 2014, and the Company filed its rebuttal testimony on December 10, 2014. Settlement discussions were conducted among the Parties from October 2014 through January 2015, and the hearings were scheduled for the week of January 12, 2015. Based on an agreement among the Parties, the hearings, with the exception of January 14, 2015, were cancelled. The Joint Petitioners entered into a Stipulation of Settlement (Settlement) which was signed by the joint petitioners, Board Staff and the Independent Energy Producers of New Jersey (Signatory Parties). On January 14, 2015, Joint Petitioners introduced the Settlement and other parties were allowed to make comments and then submit written comments if they so chose. Comments on the Settlement were filed by Rate Counsel, the Independent Market Monitor, MAREC, the Clean Energy Council, and NRG.

Based upon the statutory requirements of N.J.S.A. 48:2-51.1, the Board must consider the effect of the potential merger on four specific items: (1) Competition; (2) the effects on affected ratepayers; (3) employees; and (4) the provision of safe and adequate service at just and reasonable rates. In addition, the merger must be a positive benefit to the customers and to the State of New Jersey. With no adverse impact on competition, employees, rates and the provision of service.

The terms of the Settlement include a customer investment fund whereby the Joint Petitioners will provide \$62 million. Staff recommended the Board direct the Settlement to be a customer credit. Another term is a low-income and energy efficiency program where the Company, over five years, will provide \$15 million savings on low income and energy efficiency in the Atlantic City Electric service territory. The Company will file a base rate case within the next three years. There will be no recovery of transaction costs, and those transaction costs are defined in the settlement. There is an extension of the existing reliability improvement plan that will be extended for five years, i.e. through 2021, which currently has a budget for the first three years of over \$150 million. There is a 50-basis point penalty should the Company not achieve the agreed-upon CAIDIs and SAIFIs.

The Company will honor all collective bargaining agreements. There will be no net reductions due to merger integration for a minimum of two years. In years three to five, the maximum reductions allowed for merger integration will be 25. The Company will maintain ACE's compensation and benefits for a minimum of two years and will make a good-faith effort to hire 60 bargaining unit employees within two years. The Company will also maintain the PHI pension and retiree health benefits. Outplacement services for ACE's employees will be comparable to those that are provided for Exelon's employees. In addition, the Company will comply with the terms of the Board's June 2002 Order approving the merger of ACE and Pepco. Finally, the independent market monitor may review Exelon's demand resource bids in PJM's energy reserve and capacity markets.

Staff reviewed the positions of the non-signatory parties and believes that the settlement adequately addresses the raised concerns. With regard to the four statutory prongs,

Staff believes that there are no adverse effects on competition, employees, rates, and the provision of service. Staff believes that the terms of the Settlement provide positive benefits to the customers and to the State of New Jersey. Therefore, Staff recommended the Board approve the Settlement.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

A. Docket No. TO12030233 – In the Matter of the Application of T-Mobile Northeast, LLC for Limited Designation as an Eligible Telecommunications Carrier for Purposes of Lifeline Support Only.

Paul Flanagan, Executive Director, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself on this matter. On October 3, 2014, T-Mobile Northeast LLC (d/b/a T-Mobile or the Company), T-Mobile filed a Notice with the Board for relinquishment of its Eligible Telecommunications Carrier (ETC) designation effective December 31, 2014. As an ETC, the Company is permitted to offer Lifeline service to qualified households in New Jersey.

According to the Company, its application for relinquishment of its ETC designation in New Jersey complies with federal law and should be granted because: (1) there is currently more than one ETC serving the ETC Service Area; (2) T-Mobile is providing advance notice to the Board of such relinquishment; (3) T-Mobile will continue providing service to its customers and, additionally, the remaining ETCs in the market are able to serve the Lifeline needs of consumers within their respective designated service areas that cover the ETC Service Area; and (4) no additional facilities will need to be purchased or constructed by the remaining ETCs.

By letter dated December 2, 2014, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments. Rate Counsel requested the Board require T-Mobile to abide by the mass migration process pursuant to N.J.A.C. 14:10-12.6, or alternatively, to seek a waiver of the rules.

Staff recommended the Board approve T-Mobile's request for relinquishment, but modify the effective date of ETC designation relinquishment to correspond to the date when current T-Mobile Lifeline customers in New Jersey are transitioned to other suitable arrangements.

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

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

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 – Notice of Action.

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

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. This matter involved a petition for rulemaking from Garden State Bar Association et al., primarily requesting that the Board “limit the rates, terms, and conditions imposed by intrastate Inmate Calling Service (ICS) 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.”

Staff recommended the Board deny the petition for rulemaking as it lacks sufficient justification and information upon which to grant the relief requested. In addition, the New Jersey Department of the Treasury issued a Request for Proposal (RFP) for ICS in New Jersey. The RFP remains open to date and will impact rates for services which are the subject of the petition. Finally, Staff believed that the ongoing proceedings at the Federal Communications Commission regarding ICS rates may also have bearing on this issue.

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

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

5. WATER

A. Docket No. WM13100957 – In the Matter of the Petition for Approval of the Acquisition of the Assets of the Seaview Harbor Water Company, LLC and Other Required Approvals.

Maria L. Moran, Director, Division of Water, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On October 17, 2013, Aqua New Jersey, Inc. (Aqua) filed a petition with the Board requesting approval of the following:

- (1) The purchase of certain utility assets now owned and operated by Seaview Harbor.

According to the Agreement, Seaview Harbor will sell to Aqua the portion of land that contains the various components of the water system facilities.

Seaview Harbor intends to retain the remaining undeveloped portion of the land for possible future development. The purchase price is \$225,000. The owners of Seaview Harbor originally bought the system for \$425,000, a difference of \$200,000. At the public hearing held on this matter, the Township Manager, Mr. Miller testified that any distribution of assets from the sale should be shared with ratepayers.

- (2) The municipal consent granted by the Township to Aqua New Jersey to provide water service in the Seaview Harbor section of the Township.

Aqua has stated that it intends to make capital investments to the water system of approximately \$300,000 over a five year period which should benefit the Seaview Harbor customers.

- (3) The implementation by Aqua New Jersey of monthly billing.

Currently, the Seaview Harbor customers pay on a quarterly basis. While the rates would not change, charging on a monthly basis will allow for easier budgeting and earlier leak detection.

- (4) The discontinuance of utility service by Seaview Harbor.

Staff believes the Board should permit this based upon the fact that there will be continuity of service with a reliable provider.

- (5) The abandonment of fire protection service provided by Seaview Harbor.

While public fire protection service will not be provided by Aqua, the eight hydrants that currently exist will be switched to flush mount hydrants, which the first responders can utilize to fight a fire. As agreed to at the public hearing, Aqua will provide the local fire department with the appropriate equipment to connect to the flush mount hydrants that Aqua will install. There is a Mutual Aid Agreement in place between Longport, Somers Point and Margate to act as first responders in the event of a fire in the new franchise area and there is a protocol in place to handle such matters.

By letter dated January 30, 2015, New Jersey Division of Rate Counsel submitted comments indicating that it was not opposed to Board approval.

Staff recommended the Board approve the following: (1) the purchase of certain utility assets now owned and operated by Seaview Harbor; (2) the municipal consent granted by the Township to Aqua New Jersey to provide water service in the Seaview Harbor section of the Township; (3) the implementation by Aqua New Jersey of monthly billing; (4) the discontinuance of utility service by Seaview Harbor; and (5) the abandonment of fire protection service provided by Seaview Harbor.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

6. RELIABILITY & SECURITY

A. Docket No. AX14070647 – In the Matter of the Readoption of the New Jersey Administrative Code N.J.A.C. 14:2 – Protection of Underground Facilities – One Call Damage Prevention System.

James P. Giuliano, Director, Division of Reliability and Security, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. This matter involved Staff proposing to readopt the Board’s existing rules contained within the New Jersey Administrative Code, N.J.A.C. 14:2 et seq. Protection of Underground Facilities: One Call Damage Prevention System without changes.

These rules provide for the implementation, administration and enforcement of N.J.S.A 48:2-73 et seq. Underground Facilities Protection Act (UFPA). The current rules have been in effect since August 23, 2007 when they were readopted with minor changes. These rules have been very effective in the Board’s administration of the UFPA and will expire on February 19, 2015.

The readoption was posted in the New Jersey Register on October 6, 2014 with a comment period deadline of December 5, 2014.

Staff determined that no rule modifications were required as a result of the comments.

Staff recommended the Board approve the readoption of N.J.A.C. 14:2 et seq. “Protection of Underground Facilities: One Call Damage Prevention System”.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

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

Docket No. EO12090862V – In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87(t) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; and

Docket No. QO14060631 – In the Matter of FWCC, LLC – Clay Pits, Old Bridge.

Marisa Slaten, Assistant Director, Division of Economic Development and Energy Policy, presented this matter.

BACKGROUND AND DISCUSSION: On June 25, 2014, FWCC, LLC (FWCC) submitted an application to the Board to have its project certified as being located on a brownfield pursuant to Subsection (t) of the Solar Act. FWCC represented that the project was for a 10 MW dc project referred to as “Clay Pits” located in Old Bridge, New Jersey. FWCC described the site as a former clay mining, brick manufacturing and debris disposal site. FWCC also represented that no remediation activities are required prior to redevelopment per a No Further Action (NFA) letter from the New Jersey Department of Environmental Protection (NJDEP).

Staff transmitted the application to the NJDEP for a determination of eligible land use type and status of remediation on the proposed site. NJDEP advised Staff that following previous remediation of nickel and arsenic contamination, NJDEP issued an unrestricted use NFA letter for the entire site on October 13, 2010. NJDEP concluded that the site is not a brownfield because it was remediated to unrestricted use under the NJCEP’s Site Remediation Program.

Based on the information provided by FWCC, as well as NJDEP’s analysis, Staff determined that the potential solar generation facility is not proposed to be located on property defined as a brownfield, and therefore, the project does not qualify for certification. Therefore, Staff recommended denial of FWCC’s request for certification of the project identified as Clay Pits.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

B. Docket No. EO14080897 – In the Matter of the Petition of Public Service Electric and Gas Company to Continue Its Energy Efficiency Economic Extension Program on a Regulated Basis (EEE Extension II).

Heather Azoulay, Office of the Chief Counsel, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. On August 8, 2014, Public Service Electric and Gas Company (PSE&G) filed a Petition with the Board seeking a second extension of three sub-programs from its previously approved energy efficiency program. Specifically, PSE&G requested that the Board approve an extension of its Hospital, Direct Install, and Residential Multifamily sub-programs.

On September 30, 2014, the Board designated Commissioner Mary-Anna Holden as the Presiding Officer with the authority to rule on all motions that arose during the pendency of the case, and modify procedural schedules, as necessary.

Evidentiary hearings were conducted on December 4 and 5, 2014. During the hearings, the Parties introduced their respective pre-filed testimony and exhibits, and witnesses were cross-examined.

In order to provide the Board with additional time to complete the processing of the Petition and issue a final determination, on December 23, 2014, the Parties agreed to request an extension of the 180-day period to February 23, 2015. A Joint Stipulation was filed with Commissioner Holden, who issued an Order extending the briefing schedule. The Parties filed Initial Briefs on January 7, 2015, and Reply Briefs on January 21, 2015. Concurrently, the parties initiated a new round of settlement efforts.

Based upon on-going settlement efforts, the current Board Agenda Meeting schedule, and the approved procedural schedule, the Parties agreed that a further extension of the 180 day review period would be appropriate. The Parties subsequently entered into a Stipulation to extend the 180 day review period to March 28, 2015.

Staff recommended the Board issue an order approving the extension of the review period to March 28, 2015.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

C. Docket No. QS14121384 – In the Matter of Patrick Ryan and Ryan Incorporated, New Jersey Clean Energy Program – Home Performance with Energy Star Rebate.

Marisa Slaten, Esq., Assistant Director of Economic Development and Energy Policy, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved Staff's execution of a Settlement Agreement with Ryan and Ryan Inc. (Ryan), following Staff's review of discrepancies found by Honeywell Inc., the Market Manager, during an inspection of the Ryan's installation of certain energy efficiency measures at the Griffeth home under the Home Performance with EnergyStar (HPwES) program. Based upon those findings, in December 2014, the Board issued an Order to Show Cause directing Ryan to show cause before the Board why a Final Order should not be issued imposing a Level 4 one-year suspension against Ryan from all New Jersey Clean Energy Programs in accordance with the Board's Contractor Remediation Procedures. Ryan and Staff subsequently negotiated and approved a Settlement Agreement with the key provisions as follows:

1. Ryan consented to placement in "inactive status" from the HPwES Program for a period of one year ending February 17, 2015, except for completion of any pending HPwES projects expressly approved by the Market Manager in writing to Ryan.
2. Staff supported Ryan's reinstatement to the HPwES Program effective February 18, 2015, contingent upon Ryan meeting training requirements.
3. Reinstatement to the HPwES Program is conditioned upon Patrick Ryan's participation in mandatory in-person HPwES Program training approved by Board Staff.
4. Ryan will need to execute a current Contractor Participation Agreement, complete all BPI Gold Star requirements, and fulfill the HPwES Program's required BPI certificates prior to reinstatement.
5. Regarding the Griffeth project, Ryan agreed to reduce the total contract price by the \$4,000 expected incentive amount, make arrangements suitable to Mr. Griffeth for the balance of the expected HPwES loan amount, and provide a copy of the written arrangement with Mr. Griffeth to reflect that this has been accomplished prior to execution of the Settlement Agreement.
6. Regarding the Byrd project, Ryan agreed to reduce the total cost of the Byrd project by the \$4,000 expected incentive amount, and provide a copy of the written arrangement with Mr. Byrd to reflect that this has been accomplished prior to execution of the Settlement Agreement.

Staff found the Settlement Agreement reasonable, in the public interest, and consistent with Board policy. Therefore, Staff recommended the Board approve the Settlement Agreement.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

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

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) – Supplemental Filing:

Docket No. EO12121109V – EffiSolar Development; LLC; W2-088 (Freehold)

This matter was deferred.

- E. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 12;

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) – Supplemental Filing:

Docket No. EO12121113V – EffiSolar Development LLC; W2-083 (Kingwood/Frenchtown).

This matter was deferred.

- F. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012;

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) – Supplemental Filings:

Docket No. EO12121093V – Day Four Solar/Ralph Laks; W2-019

Docket No. EO12121122V – North Park Solar; W2-078

Docket No. EO12121117V – EffiSolar Development; LLC; W2-082

Docket No. EO12121118V – EffiSolar Development; LLC; W1-120

Docket No. EO12121119V – EffiSolar Development; LLC; W1-119

Marisa Slaten, Assistant Director, Division of Economic Development and Energy Policy, presented this matter.

BACKGROUND AND DISCUSSION: 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.

The 57 applications received from 25 developers for approximately 640 MW dc 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, and 7 were denied for non-compliance with statutory requirements. Twenty-seven more were denied for lack of progress and final approvals.

The remaining 20 applications were not sufficiently advanced to approve as eligible for SRECs. However, the projects claimed to have all final federal, state and local approvals and less speculative than those denied for lack of progress. Staff recommended evaluation of the 20 deferred (s) projects using the following criteria: impact of SRECs forecasted on the SREC market; impact on open space and farmland preservation programs; and economic benefit, especially job creation. In its October 2014 Order, the Board directed applicants to submit supplemental information for the Board to review Staff's final recommendations. Considered milestones also included equipment installed, system testing complete and requests sent to the Electric Distribution Companies to test and authorize operation of the system by June 1, 2016.

Following analysis of each of the supplemental filings, Staff recommended the Board approve the 5 projects listed above.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

G. Docket No. QO14080885 – In the Matter of the Joint Petition of KDC Solar, LLC and Six Flags Entertainment Corporation Seeking a Declaratory Judgment Pursuant to N.J.S.A. 52:14B-1, et seq., or a Waiver Pursuant to the Waiver Rule, N.J.A.C. 14:1-1.2(b).

Marisa Slaten, Assistant Director, Division of Economic Development and Energy Policy, presented this matter.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. KDC Solar, LLC (KDC) and Six Flags Entertainment Corporation (Six Flags) (together, Petitioners) submitted a joint petition for declaratory judgment or in the alternative a waiver of N.J.A.C. 14:8-4. The Petitioners sought a declaratory ruling that: “(1) the provisions of N.J.A.C. 14:8-4.1(b)(2) are satisfied by the Project, despite the anomalous circumstance whereby Jersey Central Power & Light Company (JCP&L) owns the wires and other equipment on Great Adventure property downstream of the point of interconnection and meter; and (2) Six Flags qualifies as a ‘net metering customer’ pursuant to N.J.A.C. 14:8-4.2.” The rule prohibits net metering if the renewable generator uses utility equipment to distribute energy to the end user.

The project is a 17 MW solar facility to be developed at Six Flags Great Adventure Theme Park in Jackson, NJ, so that the theme park will become a net zero facility. The solar facility will be located entirely on property owned by Great Adventure and the system capacity will be tailored not to exceed Great Adventure's annualized usage.

Once interconnected, the facility will be the largest net metered solar facility in the state.

In 1994, JCP&L and Great Adventure entered into an agreement where the theme park pays a monthly service fee and tariff rates for exclusive use of electric distribution companies (EDCs) distribution equipment. The Petitioners committed that the solar facility will satisfy net metering and contiguous property rules. The existing utility-owned substation will continue to serve Great Adventure's Safari animal houses, as well as approximately 3,000 JCP&L customers.

The design plan contemplates the solar facility interconnecting behind the meter to a new customer-owned substation, and delivering power downstream from the substation to service the theme park using the EDCs distribution equipment. The new customer-owned substation will serve Great Adventure only.

Staff asserted that the project is in the public interest as it reduces energy consumption and develops clean distributed generation that complies with the Energy Master Plan. It also ensures that distribution costs solely incurred by the customer generator are largely borne by the customer generator. Staff recommended the Board deny the declaratory judgment request, but grant waiver of the rule, conditioned that the Petitioners meet certain additional requirements. Additionally, Staff recommended the Petitioners implement cost-effective energy efficiency measures to reduce their energy usage and ultimately the size of the solar facility.

Staff recommended the plan identify the anticipated energy savings from the proposed conservation measures, and also reduce, if appropriate, the size of the solar facility to account for the reduced energy usage due to the energy efficiency measures. Commissioner Fiordaliso moved to amend Staff's recommendation to include the surface lighting evaluation. Commissioner Holden seconded the amended motion.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

9. MISCELLANEOUS

Jake Gertsman, Legal Specialist, Office of Chief Counsel, presented these matters.

A. Docket No. AX15010031 – In the Matter of N.J.A.C. 14:1 – Rules of Practice – Proposed Readoption with Amendments.

BACKGROUND AND DISCUSSION: This matter involved the proposed readoption with amendments of N.J.A.C. 14:1 Rules of Practice, which will expire on March 3, 2015. The proposed readoption with amendments must be filed with the Office of Administrative Law for publication in the New Jersey Register before the expiration date of the existing rule, to prevent the rule from expiring.

The rules govern practice and procedure before the Board which include the following: (1) all pleadings, petitions and filings; (2) fees and charges; (3) appearances and motions in both contested and uncontested cases; and (4) confidentiality issues that arise pursuant to the Open Public Records Act.

In addition to recommending that the Board propose the rules for readoption, Staff recommended the Board propose amendments that would serve primarily to clarify the existing rules. Staff also recommended the Board propose a new section, N.J.A.C. 14:1-5.16, setting forth the requirements for petitions for rulemaking in accordance with N.J.A.C. 14:1-30.4 et seq. The amendments also provide that petitions for rulemaking are not considered contested cases and are not subject to the provisions of N.J.A.C. 14:1-8 et seq. All of the requirements in the proposed amendments codify current practices.

Staff further recommended that the Board propose new section N.J.A.C. 14:1-7.5 providing that a settlement includes any agreement between the parties that resolves disputed matters, and may end all or part of the case. The section also provides that no settlement shall be deemed approved by the Board unless acted on in accordance with N.J.S.A. 48:2-40.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |
| | Commissioner Chivukula | Aye |

B. Docket No. AX15010032 – In the Matter of N.J.A.C. 14:3 – All Utilities – Readoption By Notice.

BACKGROUND AND DISCUSSION: Commissioner Chivukula recused himself from this matter. This matter involved the readoption by notice of N.J.A.C. 14:3 All Utilities, which will expire on April 10, 2015. The rules provide basic requirements for all utilities regulated by the Board, which include water, wastewater, electric, gas, and telephone utilities.

Staff reviewed these rules and recommended that the readoption proceed without amendments, and that the Board readopt the rules by notice. Accordingly, the Board's approval of the readoption by notice means that there will be no comment period. The readoption will become effective when the notice is filed with the Office of Administrative Law, and will be effective for seven years.

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

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| Roll Call Vote: | President Mroz | Aye |
| | Commissioner Fiordaliso | Aye |
| | Commissioner Holden | Aye |
| | Commissioner Solomon | Aye |

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



DATE: March 18, 2015

KENNETH J. SHEEHAN
BOARD SECRETARY