



Agenda Date: 12/14/11  
Agenda Item: 2E

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 S. Clinton Avenue, 9<sup>th</sup> Floor**  
**P.O. Box 350**  
**Trenton, NJ 08625-0350**  
**www.nj.gov/bpu/**

DIVISION OF ENERGY AND  
OFFICE OF CLEAN ENERGY

IN THE MATTER OF THE PETITION OF NEW JERSEY )  
NATURAL GAS COMPANY FOR APPROVAL OF )  
AN EXTENSION OF ENERGY-EFFICIENCY PROGRAMS )  
AND THE ASSOCIATED COST RECOVERY )  
MECHANISM PURSUANT TO N.J.S.A. 48:3-98.1 )

ORDER ADOPTING  
STIPULATION AND APPROVAL  
OF 180 DAY REVIEW

DOCKET NO. GR11070425

(NOTIFICATION LIST ATTACHED)

Tracey Thayer, Attorney for the Petitioner, New Jersey Natural Gas Company  
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel  
Murray E. Bevan, Esq., Bevan, Mosca, Giuditta & Zarillo, P.C., on behalf of Bloom Energy Corporation

BY THE BOARD:

**Background and Procedural History**

On January 13, 2008, L. 2007, c. 340 ("Act") was signed into law by former Governor Corzine based on the New Jersey Legislature's findings that energy efficiency and conservation measures must be essential elements of the State's energy future, and that greater reliance on energy efficiency and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and energy efficiency industries are essential to maximize efficiencies. N.J.S.A. 26:2C-45.

Pursuant to Section 13 of the Act, codified as N.J.S.A. 48:3-98.1 (a)(1), an electric or gas public utility may, among other things, provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis. Such investment in energy efficiency and conservation programs may be eligible for rate treatment approved by the New Jersey Board of Public Utilities ("Board"), including a return on equity, or other incentives or rate mechanisms that decouple utility

revenue from sales of electricity and gas. N.J.S.A. 48:3-98.1(b). Ratemaking treatment may include placing appropriate technology and program cost investments in the utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the Board. An electric or gas public utility seeking cost recovery for any energy efficiency and conservation programs pursuant to N.J.S.A. 48:3-98.1 must file a petition with the Board.

On July 17, 2009, the Board authorized New Jersey Natural Gas Company ("NJNG" or "Company") to implement three energy efficiency programs: 1) Home Performance with Energy Star ("HPwES") Enhancements; 2) Enhanced Warm Advantage Rebate Program; and 3) Commercial Customer Direct Install Program as part of former Governor Corzine's Economic Stimulus Plan announced in October 2008<sup>1</sup> ("Original Programs"). The programs were designed to complement or supplement existing New Jersey Clean Energy Program ("NJCEP") offerings including the ongoing WarmAdvantage, COOLAdvantage, HPES, Commercial Direct Install and Smart Start Building programs. The NJNG programs were to be available to eligible customers for approximately twelve months. In the event there was still program funding available after that period, NJNG could continue to offer the approved programs through December 31, 2010.

By Order dated September 24, 2010, the Board authorized NJNG to extend and expand the Original Programs through December 31, 2011<sup>2</sup> ("September 2010 Order"). In addition to authorizing modifications to the Original Programs, the September 2010 Order also authorized the Company to implement an OPOWER pilot through which customers obtain information about their specific energy use in comparison to comparable households, an incremental incentive for Combined Heat and Power ("CHP") projects undertaken in conjunction with NJCEP, and a program with that offers eligible customers an opportunity for customized provisions, Fostering Environmental and Economic Development ("FEED") (collectively, "NJNG SAVEGREEN Project").

### July 2011 Filing

On July 15, 2011, NJNG filed the instant petition with the Board. On August 11, 2011, Board Staff notified NJNG that the filing was administratively complete.<sup>3</sup>

In the filing, the Company seeks 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 twelve-month period beginning in January 2012. The Company also proposed the implementation of a pilot program offering higher efficiency heating equipment through conversions to natural gas for electric heat customers receiving benefits from the Universal Service Program. The petition also seeks approval for a continuation of the Board-approved mechanism for cost recovery.

The total proposed gross investment for these programs is \$11.45 million. NJNG proposes to recover the costs through the current Rider F in NJNG's tariff.

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<sup>1</sup> I/M/O Energy Efficiency Programs and Associated Cost Recovery Mechanisms and I/M/O the Petition of New Jersey Natural Gas Company for Approval of Energy Efficiency Programs with an Associated Cost Recovery Mechanism, BPU Docket Nos. EO09010056 and GO09010057, Order dated July 17, 2009.

<sup>2</sup> I/M/O the Petition of New Jersey Natural Gas for Approval of Regional Greenhouse Gas Initiative Programs and Associated Cost Recovery Mechanisms Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. GO10030225, Order dated September 24, 2010.

<sup>3</sup> N.J.S.A. 48: 3-98.1 requires the Board to decide cost recovery issues within 180 days. Pursuant to the Board Order issued in response to a further statutory directive within that section, Board Staff must review a petition for completeness within 30 days and, when a petition is determined to be complete, set the beginning of the 180-day period. I/M/O Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources, and Offering Class I Renewable Energy Programs in their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1, Dkt. No. EO08030164 (May 8, 2008). Accordingly, the 180-day for a Board determination commenced on July 15, 2011 and expires on January 11, 2012.

By Order dated September 22, 2011, the Board retained this matter for review and hearing as authorized by N.J.S.A. 48:2-32 and designated Commissioner Joseph L. Fiordaliso as the presiding officer in this proceeding. Additionally, the Board adopted a procedural schedule agreed to by the Company, Board Staff, and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, the "Parties").

By letter dated October 15, 2011, Bloom Energy Corporation ("Bloom") filed a Motion to intervene in this matter. By Order dated November 2, 2011, Commissioner Fiordaliso denied Bloom's motion but instead granted Bloom participant status in this proceeding.

On November 16, 2011, Rate Counsel submitted the direct testimony of Robert Fagan and Robert J. Henkes.

### STIPULATION

The Parties have met on several occasions to discuss the July 2011 filing. Currently, the first Board Agenda Meeting scheduled for next year is January 18, 2012. Since discussions in this matter might not be complete prior to January 11, 2012, the expiration of the 180 day review period ("RGGI Date"), on December 2, 2011 the Parties entered into the attached Stipulation of Settlement ("Stipulation") whereby the Parties agreed to an extension of the 180 day period.

The Parties have agreed to the following salient terms<sup>4</sup>:

1. In order to allow sufficient time for the administrative processing and review of the Petition, as well as the issuance of a Board Order in this case, the current RGGI Date of January 11, 2012 shall be extended and a revised RGGI Date of January 31, 2012 be established and the administrative processing and review of this proceeding shall proceed in accordance with the procedural schedule approved by the Board in its September 22, 2011 Order. The Stipulating Parties, therefore, pursuant to N.J.S.A. 48:2-21.3, request that the Board issue an Order establishing a revised RGGI date of January 31, 2012 for purposes of extending the 180 day review period to January 31, 2012 ("Revised RGGI Date") and allowing completion of the processing and review of the petition and the issuance of a Board Order in this proceeding.
2. NJNG will be allowed to continue the Company's current SAVEGREEN Programs with funds allocated for SAVEGREEN in 2011, under the same terms and conditions as approved in the September 2010 Order.

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<sup>4</sup> Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusion of this Order.

**DISCUSSION**

The Board has carefully reviewed the record to date in this matter. The Board is satisfied and **HEREBY FINDS** that the Stipulation represents a fair and reasonable interim resolution of the issues and is in public interest. Accordingly, the Board **HEREBY ADOPTS** the attached Stipulation as its own, incorporating by reference its terms and conditions as if fully set forth herein. The Board **HEREBY DIRECTS** the Parties to comply with the terms and conditions of the Stipulation.

DATED: 12/15/11

BOARD OF PUBLIC UTILITIES  
BY:



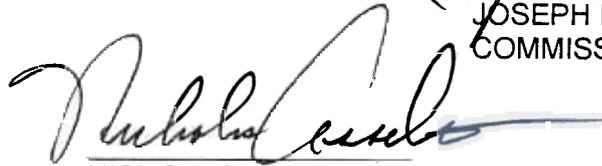
LEE A. SOLOMON  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER



JOSEPH L. FIORDALISO  
COMMISSIONER



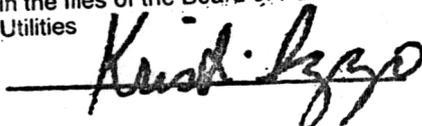
NICHOLAS ASSELTA  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



In the Matter of the Petition of New Jersey Natural Gas Company for Approval of an  
Extension of Energy-Efficiency Programs and the Associated Cost Recovery Mechanism, Pursuant  
to N.J.S.A. 48:3-98.1  
DOCKET NO. GR11070425

NOTIFICATION LIST

<b>BOARD OF PUBLIC UTILITIES</b>		
Jerome May Board of Public Utilities 44 S. Clinton Avenue, 9 <sup>th</sup> Floor P.O. Box 350 Trenton, NJ 08625-0350	Alice Bator Board of Public Utilities 44 S. Clinton Avenue, 9 <sup>th</sup> Floor P.O. Box 350 Trenton, NJ 08625-0350	Michael Winka Board of Public Utilities 44 S. Clinton Avenue, 9 <sup>th</sup> Floor P.O. Box 350 Trenton, NJ 08625-0350
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<b>DEPARTMENT OF LAW &amp; PUBLIC SAFETY</b>		
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<b>NJNG</b>		
<p>Mark R. Sperduto, Vice President  Regulatory &amp; External Affairs  New Jersey Natural Gas Company  1415 Wyckoff Road  P.O. Box 1464  Wall, NJ 07719</p>	<p>Tracey Thayer, Esq.  Director, Regulatory Affairs Counsel  New Jersey Natural Gas Company  1415 Wyckoff Road  P.O. Box 1464  Wall, NJ 07719</p>	

<b>Other Parties</b>		
<p>Murray Bevan, Esq.  Bevan, Mosca, Giuditta &amp; Zarillo,  P.C.  222 Mt. Airy Road, Suite 200  Basking Ridge, NJ 07920</p>		

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PETITION OF  
NEW JERSEY NATURAL GAS COMPANY  
FOR APPROVAL OF AN EXTENSION OF  
ENERGY-EFFICIENCY PROGRAMS AND  
THE ASSOCIATED COST RECOVERY  
MECHANISM, PURSUANT TO N.J.S.A.  
48:3-98.1**

**BPU DOCKET NO. GR11070425**

**STIPULATION**

**APPEARANCES:**

**Tracey Thayer, Esq.**, New Jersey Natural Gas Company, for the Petitioner, New Jersey Natural Gas Company

**Felicia Thomas-Friel, Esq.**, Deputy Rate Counsel, **Sarah H. Steindel, Esq.**, and **Christine Juarez, Esq.**, Assistant Deputy Rate Counsel (**Stefanie A. Brand, Esq.**, Director, Division of Rate Counsel)

**Alex Moreau and Veronica Beke**, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (**Paula T. Dow**, Attorney General of New Jersey)

**TO: THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

**BACKGROUND**

1 On July 17, 2009, the New Jersey Board of Public Utilities ("Board") authorized New Jersey Natural Gas Company ("NJNG" or "Company") to implement three energy efficiency programs: 1) Home Performance with Energy Star ("HPES") Enhancements; 2) Enhanced Warm Advantage Rebate Program; and 3) Commercial Customer Direct Install

Program as part of former Governor Corzine's Economic Stimulus Plan announced in October 2008<sup>1</sup> ("Original Programs"). By Order dated September 24, 2010, the Board authorized NJNG to extend and expand the following programs through December 31, 2011<sup>2</sup> ("September 2010 Order"): enhanced rebates for the purchase and installation of various heating, ventilation and air conditioning ("HVAC") equipment; an on-bill repayment program ("OBRP") available at zero percent interest for eligible customers and managed by NJNG employees; free air-sealing work for customers taking advantage of the NJNG WARMAdvantage rebate; additional rebates for eligible customers participating in HPES Audits and additional energy saving projects; the OPOWER pilot through which customers obtain information about their specific energy use in comparison to comparable households; an incremental incentive for Combined Heat and Power ("CHP") projects undertaken in conjunction with New Jersey Clean Energy Program ("NJCEP"); and a program that offers eligible customers an opportunity for customized provisions, Fostering Environmental and Economic Development ("FEED") (collectively, "NJNG SAVEGREEN Project").

On July 15, 2011, NJNG filed a petition (the "Petition") in Docket No. GR11070425 requesting that the Board approve an extension, with modifications, of the current energy efficiency programs and the OBRP offered in the NJNG SAVEGREEN Project over a twelve month period beginning January 2012. The filing was made pursuant to N.J.S.A. 26:2C-45 and 48:3-98.1 (the "Act").

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<sup>1</sup> I/M/O Energy Efficiency Programs and Associated Cost Recovery Mechanism AND I/M/O the Petition of New Jersey Natural Gas Company for Approval of Energy Efficiency Programs with an Associated Cost Recovery Mechanism, BPU Docket Nos. EO09010056 and GO09010057, Order dated July 17, 2009.

<sup>2</sup> I/M/O the Petition of New Jersey Natural Gas Company for Approval of Regional Greenhouse Gas Initiative Programs and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. GO10030225, Order dated September 24, 2010.

3. The Petition also sought approval for an associated cost recovery mechanism. The total proposed gross investment for these programs is \$11.45 million. NJNG proposes to recover the costs through the current Rider F in NJNG's tariff.

4. The Company's Petition was accompanied by supporting schedules, program descriptions, financial and other related information pursuant to the MFRs. A letter was received from Staff dated August 11, 2011, noting that the Petition and accompanying information were found to be administratively complete pursuant to the May 12 Order and that the 180-day period prescribed by the Act for a final Board determination would commence on July 15, 2011. Consequently, the 180-day review period shall expire on January 11, 2012 ("RGGI Date").

On September 22, 2011, the Board issued an Order retaining this matter at the agency for consideration and, pursuant to N.J.S.A. 48:2-32, designated BPU Commissioner Joseph L. Fiordaliso as the presiding officer. Additionally, the Board adopted a procedural schedule agreed to by the Company, the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively, the "Parties").

6. By letter dated October 15, 2011, Bloom Energy Corporation ("Bloom") filed a Motion to Intervene in this matter. By Order dated November 2, 2011, Commissioner Fiordaliso denied Bloom's motion and instead granted Bloom participant status in this proceeding.

7. Discovery questions in this matter were propounded by Board Staff and Rate Counsel, and the Company has provided responses.

8. Rate Counsel filed the direct testimony of Robert J. Henkes and Robert Fagan on November 16, 2011.

9. Public notice was provided by NJNG for four public hearings on the proposed RGGI Programs that were held on the following times and dates at locations in the NJNG service territory: hearings at 3:30 pm and 5:30 pm on August 23, 2011, in Rockaway Township and hearings at 3:30 pm and 5:30 pm on August 24, 2011, in Freehold Borough.

10. In light of the fact that the Parties' discussion in this matter might not be completed by the RGGI Date, the Parties have discussed the need for an extension of the RGGI Date in order to provide the Parties with additional time to complete the administrative processing and review of the petition and the Board to issue a final determination in this matter.

#### STIPULATION

Based upon and subject to the terms and conditions set forth herein, the Parties stipulate and agree as follows:

11. In order to allow sufficient time for the administrative processing and review of the Petition, as well as the issuance of a Board Order in this case, the current RGGI Date of January 11, 2012 shall be extended and a revised RGGI Date of January 31, 2012 be established and the administrative processing and review of this proceeding shall proceed in accordance with the procedural schedule approved by the Board in its September 22, 2011 Order. The Stipulating Parties, therefore, pursuant to N.J.S.A. 48:2-21.3, request that the Board issue an Order establishing a revised RGGI date of January 31, 2012 for purposes of extending the 180-day review period to January 31, 2012 ("Revised RGGI Date") and allowing completion of the processing and review of the petition and the issuance of a Board Order in this proceeding.

12. NJNG will be allowed to continue the current SAVEGREEN Programs with funds allocated for SAVEGREEN in 2011, as approved in the September 2010 Order.

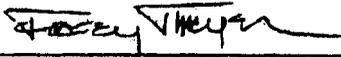
13. This Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in any applicable Order, then any Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

14. It is the intent of the Parties that the provisions hereof be approved by the Board as being in the public interest. The Signatory Parties further agree that they consider the Stipulation to be binding on them for all purposes herein.

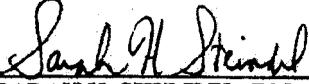
15. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, NJNG, Board Staff, and Rate Counsel shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein and, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

**WHEREFORE**, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

**NEW JERSEY NATURAL GAS COMPANY**

By:   
TRACEY THAYER, ESQ.  
Director, Regulatory Affairs Counsel

**STATE OF NEW JERSEY, DIVISION OF RATE COUNSEL  
STEFANIE A. BRAND, DIRECTOR**

By:   
SARAH H. STEINDEL, ESQ.  
Assistant Deputy Rate Counsel

**STAFF OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES  
PAULA T. DOW  
ATTORNEY GENERAL OF THE STATE OF NEW JERSEY**

By:   
ALEX MOREAU  
Deputy Attorney General

Date: