



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Kristi Izzo  
Secretary of the Board  
(609) 292-1599

November 3, 2014

To the Attached Service List:

RE: IN THE MATTER OF THE BOARD'S REVIEW OF THE APPLICABILITY AND  
CALCULATION OF A CONSOLIDATED TAX ADJUSTMENT-  
Docket No. EO12121072 – **Agenda Date 10/22/14 – Item 2F**

Please be advised that the Board of Public Utilities is reissuing the Order for agenda item 2F from the October 22, 2014, Board agenda meeting to correct an inaccurate docket number in the signed Order. The correct docket number is EO12121072.

This is the only change to the Order, which will be re-distributed to the parties of record and the service list.

Sincerely,

A handwritten signature in cursive script that reads 'Kristi Izzo'.

Kristi Izzo  
Secretary of the Board



Agenda Date: 10/22/14  
Agenda Item: 2F

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE BOARD'S REVIEW OF THE )  
APPLICABILITY AND CALCULATION OF A )  
CONSOLIDATED TAX ADJUSTMENT )  
)  
)  
)

ORDER MODIFYING THE  
BOARD'S CURRENT  
CONSOLIDATED TAX  
ADJUSTMENT POLICY

DOCKET NO. EO12121072<sup>1</sup>

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD<sup>2</sup>:

By order dated January 23, 2013, the Board of Public Utilities ("Board") directed Board Staff ("Staff") to convene all interested parties to participate in a proceeding to review issues related to the consolidated tax saving adjustment ("CTA") to determine: 1) the continued use by the Board of the CTA policy; 2) how to calculate the amount of savings that result from filing a consolidated return; 3) how these savings should be equitably shared between the regulated company and the ratepayers; and 4) if a rulemaking proceeding should be undertaken to establish utility-wide or statewide standards with respect to the implementation of a CTA policy.

To further the review of CTA policy, Staff requested information via Notices of Opportunity to Comment dated March 6, 2013, (attachment 1) and July 25, 2013 (attachment 2). Additionally, a request for information was sent to interested parties on November 1, 2013 (attachment 3). All non-confidential responses to these requests were posted on the Board's website.

---

<sup>1</sup> The docket number was incorrectly listed as EO12121772 on the Order signed by the Board. The docket number has been corrected to EO12121072 and the Order reissued.

<sup>2</sup> President Richard S. Mroz and Commissioner Upendra J. Chivukula have recused themselves due to a possible conflict of interest and as such took no part in the discussion or deliberation of this matter.

Following its review of all information submitted pursuant to these requests, Staff proposed that the current CTA policy remain in effect except as amended by the following:

1. The time period for the calculation of the savings would look back five years from the beginning of the test year;
2. The savings allocation method would allow 75% of the calculated savings to be retained by the company and 25% of the calculated savings to be allocated to the ratepayers; and
3. Transmission assets of the EDCs would not be included in the calculation of the CTA.

At the June 18, 2014 Board agenda meeting, Staff notified the Board of its intention to distribute the proposal to all interested parties. The notice containing Staff's proposal (attachment 4) was published in the New Jersey Register on July 7, 2014 at 46 N.J.R. 1657(a), distributed to interested parties and posted on the Board's website with a request that written comments on the proposed modification of CTA policy be submitted on or before Monday, August 18, 2014.

### **Positions of the Parties on Staff's June 18, 2014 Proposal**

#### **Rate Counsel:**

Rate Counsel believes that Staff's proposal: effectively eliminates the CTA for most companies; would result in ratepayers paying "hypothetical" taxes that do not reflect the actual tax liability of the utilities, and thus would not lead to the setting of rates that are just and reasonable; that the distinctions made to achieve the proposed formula are arbitrary and capricious; and that there is no factual basis in the record to establish a look-back period of only five years or a "sharing" that gives the utility the overwhelming majority of the pie. Therefore, Rate Counsel asserts that Staff's proposal should be rejected.

Rate Counsel acknowledges that some adjustment of the CTA calculation may be appropriate as the current methodology has at times led to very significant adjustments that the Board may wish to correct. The Board is not free to arbitrarily select inputs to the calculation to practically eliminate the CTA, as it believes is the case with the Straw Proposal. Rate Counsel submits some alternative criteria that may be used to calculate a modified CTA. These criteria have a rational basis in the law, and would result in a fair sharing of the benefits of consolidated taxes between ratepayers and shareholders, if adopted. (Rate Counsel Comment at 2.)

Rate Counsel believes that it is well-established law in New Jersey that the savings associated with a utility's participation in a consolidated tax group must be shared with the utility's customers and that the CTA likewise represents sound ratemaking policy. (Id. at 4-5)

Rate Counsel believes that because New Jersey ratepayers will continue to pay what they

describe as fictitious income tax expenses in rates while receiving little or no CTA benefit, the Straw Proposal fails to meet the Board's statutory obligation to set just and reasonable rates. (Id. at 6)

Rate Counsel states there are three electric utilities, three gas utilities, and one combined gas/electric utility in New Jersey. If all seven of those utilities currently had pending base rate cases, five of the seven – Public Service Electric and Gas Company, Atlantic City Electric Company, Jersey Central Power & Light Company, South Jersey Gas Company, and Elizabethtown Gas - would not be subject to a consolidated tax adjustment under the Straw Proposal. The State Supreme Court has ruled that the tax benefits flowing from the filing of a consolidated tax return have to be shared with ratepayers, as a utility is “entitled to an allowance for actual taxes and not for higher taxes that it would pay if it filed on a different basis.” Given this precedent, Rate Counsel believes that a proposal resulting in no consolidated tax adjustment for five of the seven New Jersey gas and electric utilities cannot be viewed as “just and reasonable” and is not consistent with the Board's statutory mandate. (Id. at 7)

Regarding the specifics of Staff's proposal, Rate Counsel believes that the selection of a five year look back period is arbitrary since nothing is in the record to support Staff's proposal to use a five year time frame for the calculation of a CTA. Using a five year look back period, negative net income of one or two years can easily outweigh the positive income of the prior years, resulting in no consolidated tax adjustment. The five year look back period thus provides a distorted picture of the true economic activity of the utility and the holding company and results in the collection of millions of dollars each year from ratepayers for the payment of these hypothetical taxes. The five year look back period thus results in an inaccurate measurement of consolidated tax benefits and is unfair to ratepayers. (Id. at 10-11)

Rate Counsel recommends a twenty year look back period which it believes is consistent with federal tax laws which allow losses to be carried forward for 20 years and has a basis in tax law and in regulatory policy. (Id. at 11)

Rate Counsel believes that Staff's proposal to give only 25% of the calculated CTA to ratepayers is not a fair allocation of the tax benefit, because it ignores the fact that the CTA calculation already gives New Jersey ratepayers only an allocated share of the consolidated tax benefit. Ratepayers do not get the entire tax benefit, only a share based on the positive net income of the utility. There is nothing in the record in this proceeding to suggest that a further reduction in the ratepayers' share by 75% is reasonable. (Id. at 12-13) Rate Counsel further asserts that it is important to recognize that the Board is not recommending that 25% of the entire CTA benefit be allocated to ratepayers, but rather that ratepayers receive only 25% of the benefit that they would receive under the current methodology. (Id. at 14) Rate Counsel believes if the Board is determined to reduce ratepayers' share of the consolidated tax benefit, ratepayers should receive at least half of the calculated benefit. It is ratepayers who are paying millions of dollars in tax expense collected by the utility each year which is not going to the IRS but is being passed on to an unregulated affiliate. To allow a greater portion of the benefit to go to shareholders is inequitable and arbitrary and should not be adopted. At the very least, if a further sharing is to be considered, it should be an equal 50/50 allocation. (Id. at 15)

Rate Counsel further believes that if transmission assets are excluded from the Board's consolidated tax calculation, ratepayers will never receive tax benefits accrued through the use of ratepayer funds. Ratepayers are entitled to share in the benefits of the consolidated tax filing. If transmission assets are removed from the calculation, then regulated rates are subsidizing

unregulated and unprofitable ventures with no benefit to New Jersey ratepayers. Rate Counsel recommends that the Board continue to include transmission assets in the consolidated tax adjustment. (Id. at 16)

Finally, Rate Counsel believes that if the Board wishes to make “material changes” to its current CTA policy, it must institute an agency rulemaking pursuant to the provisions of the Administrative Procedure Act (“APA”) pursuant to Metromedia, Inc. v. Div. of Taxation, 97 N.J. 313, 331-32 (1984). Ibid

#### New Jersey Large Energy Users Coalition (“NJLEUC”):

NJLEUC asserts that what distinguishes New Jersey from other jurisdictions that have eliminated use of the CTA is a long, clear and consistent series of appellate court precedents that authorize the Board to utilize a CTA in rate cases involving utilities that are parties to consolidated tax agreements. Therefore, for more than 30 years, the Board has properly responded to the clear and consistent legal authority and appellate precedents and implemented a CTA in each base rate case brought by the State’s utilities. (NJLEUC Comment at 1)

NJLEUC believes that the CTA methodology that Staff proposes would result in a negligible, if not zero, CTA for many utilities that file consolidated tax returns. (Id. at 3)

NJLEUC opposes the five year look back proposal because it would establish an unduly limited and arbitrary time period that has no basis in the record, tax law or utility regulatory policy. This limited period would not fully reflect the tax contribution of utility ratepayers and the benefits ratepayers should receive for the resulting rates to be considered just and reasonable. NJLEUC urges the Board to instead adopt a time period for CTAs that is consistent with the pertinent provision of the Internal Revenue Code, 26 U.S.C. 172. This provision permits consolidated tax groups to carry forward losses incurred prior to 1998 for a period of 15 years, and losses incurred after 1997 to be carried forward for 20 years. If the carried losses are not offset against gains during the 20 year period, the losses expire and would no longer be eligible to be used as part of a CTA. (Id. at 4-5)

NJLEUC opposes the proposed sharing arrangement in Staff’s proposal as inadequate to fairly compensate ratepayers. NJLEUC is not aware of a record developed in any proceeding that would support a formula for the utilities and ratepayers to share CTA-related savings that departs from the current Rockland CTA methodology which already incorporates a “sharing approach” based upon a “rate base” method that essentially treats the tax benefits derived by the holding company as cost-free capital contributed by ratepayers, with the carrying costs associated with the “loan” credited to ratepayers. (Id. at 5)

NJLEUC opposes the proposed removal of transmission-related utility assets from the calculation of the CTA. The fact that the Board does not have regulatory jurisdiction over utility transmission assets should have no bearing whatsoever on the tax ramifications associated with consolidated tax arrangements between aggregated groups containing both regulated and non-regulated entities. (Id. at 6)

NJLEUC raises as an additional issue the need for the Board to implement a rulemaking proceeding to properly address the CTA on a generic basis. NJLEUC believes that this proceeding is not adjudicative in nature and the decisions to be made regarding the future

contours of CTAs in utility rate proceedings are broad and will apply to all of the State's utilities. Because the policies to be adopted in this proceeding would represent broad policy guidelines that would determine the nature and method of calculation of CTAs and would be generally applied on a prospective basis in future rate proceedings, NJLEUC suggests respectfully that the criteria and process to be adopted should be the subject of a rulemaking proceeding. (Id. at 7)

#### Jersey Central Power & Light ("JCP&L")

JCP&L believes that the Board's current CTA methodology is fundamentally flawed, violates federal tax laws, and its continued application would result in confiscatory rates for JCP&L, and likely for other utilities as well. As such, JCP&L agrees that Staff's proposal, which would lessen the magnitude of the CTA for JCP&L (and likely for other utilities), is clearly a positive development. (JCP&L comment at 2)

However, JCP&L believes that the Staff proposal does not address the fundamental legal and policy flaws inherent in the application of *any* CTA. Moreover, the proposal addresses some, but not all, of the inherent flaws in the current calculation methodology. Therefore, while JCP&L appreciates Staff's efforts, the Company nonetheless urges the Board to: (1) completely eliminate the imposition of a CTA (either immediately or through a "phase-out period" as discussed below); or (2) in the alternative, build upon Staff's Straw Proposal with additional modifications that address the other flaws in the current CTA calculation methodology. (Id. at 3)

JCP&L's fundamental position continues to be that the Board should completely eliminate the imposition of a CTA in utility rate-setting. It is important to emphasize that there is no legal mandate in New Jersey that requires the Board to implement a CTA during base rate cases or otherwise in the rate-setting process. Title 48 contains nothing that requires a CTA. Similarly, the Board's regulations make no mention of a CTA, let alone require one. While there have been court decisions that affirmed the Board's ability to reflect some impact from a consolidated tax filing in an individual rate case, none of those decisions requires the Board to do so in every case. (Id. at 3 - 4) JCP&L believes that the argument that the Board "must" implement a CTA as a matter of law is clearly erroneous and should not deter the Board from completely eliminating a CTA, as a matter of policy, in the instant proceeding. (Id. at 5)

JCP&L believes that, should the Board determine that it would be more appropriate to eliminate the CTA more gradually, it should consider a five-year phase out. Under this approach, the Board would immediately implement the revised CTA calculation methodology proposed by Staff in any currently pending base rate cases or in any base rate cases that conclude within five years of the date of the final Order in this matter. With respect to any base rate cases that conclude more than five years from the date of the final Order in this case, there would be no CTA applied. (Id. at 6)

JCP&L believes that, should the Board determine to modify the CTA methodology (either in lieu of eliminating a CTA immediately or during a five-year phase out period), the Board should amplify Staff's Straw Proposal by adding the following: ruling that any element of the methodology that is inconsistent with federal tax laws will be eliminated; excluding the impact of all net operating loss carryforwards ("NOLCs") of unregulated affiliates; eliminating entities that are no longer part of the consolidated tax group from the calculation; and eliminating tax losses of other regulated utility group members from the calculation. (Id. at 7-8)

### Atlantic City Electric Company (“ACE”)

ACE believes that the CTA should be eliminated in its entirety and that the imposition of a CTA is inconsistent with encouraging investment and job growth in New Jersey, and runs contrary to sound regulatory practice. Thus, ACE recommends that the Staff Proposal be modified to include a provision requiring the CTA to “sunset” at a specific date. ACE respectfully suggests that a five year sunset period would be reasonable. (ACE Comment at 2) Additionally, ACE believes that the final order in this matter is a vehicle for the Board to provide clarity regarding the mechanics of the CTA calculation, and to consider other specific and targeted CTA refinements. Ibid.

ACE requests that the Board should require that any CTA calculation reflect Internal Revenue Service audit changes, as well as any tax law changes for the applicable tax years. Additionally, the Board should state that the CTA “benefit” will be reduced by the alternative minimum tax paid. Finally, the Board should confirm that net plant book value should be used as the basis in determining the total value of all assets and the value of transmission assets will be eliminated from the CTA calculation for electric distribution companies. In addition, ACE believes that the Board must spell out any modifications to the CTA in sufficient detail to avoid the creation of new areas of controversy. Ibid.

### Elizabethtown Gas (“Elizabethtown”)

While Elizabethtown continues to believe that the Board should completely eliminate the CTA when establishing base rates for the State’s distribution utilities, Elizabethtown nonetheless recognizes that the revised CTA policy will likely reduce the impact of the CTA on individual utilities and thus represents a positive step toward creating a fairer and more equitable ratemaking environment in comparison to the current CTA Policy. (Elizabethtown Comments at 2)

Elizabethtown believes that there is no merit in claims that the Board is somehow required to adopt a CTA. While New Jersey’s courts have held that the Board has the authority to include a CTA in determining just and reasonable rates, the courts have never held that the Board is required to do so. On the contrary, Elizabethtown asserts that continuing to utilize a CTA in setting base rates is only lawful to the extent that it permits the Board to establish just and reasonable rates. Ibid.

Elizabethtown states that continued use of a CTA in setting base rates is at cross-purposes with the goal of increasing investment, and that the continuation of a CTA is nothing more than the product of reliance on precedent rather than logic and common sense. The unreasonableness of the continued application of a CTA is demonstrated by the fact that a comprehensive CTA is not currently used in ratemaking by the Federal Energy Regulatory Commission or by regulatory authorities in 47 of 50 states. Ibid.

Assuming that the Board adopts Staff’s proposal, other modifications to the calculation of CTAs, analogous to the exclusion of transmission assets for EDCs, may be appropriate for other utilities. Different corporate structures and business models may justify adjustments in the determination of individual utility CTAs within the context of the five year look back and 75%-25% sharing formula reflected in the revised CTA Policy. Accordingly, Elizabethtown requests clarification that as part of its revised CTA Policy, the Board will allow utilities to make a record concerning their individual circumstances and the way in which those circumstances may affect

the application of the revised CTA Policy in individual utility rate proceedings. Ibid.

#### United Water

The United Water companies continue to believe that utilization of a CTA, as commonly referred to, is inappropriate in the establishment of utility rates and supports the comments made by the New Jersey Utilities Association. However, United Water believes that, if a CTA is to be applied, it is appropriate to have a defined methodology which produces consistent results across electric, gas, and water and wastewater utilities. The proposed modifications meet these needs to a greater degree than before and represent a step in the right direction. (United Water Comment at 1)

United Water also believes that a change in the proposed look back period and/or allocation percentage would likely produce results which are inconsistent between the various utilities and, if such changes are considered, previous recommendations should be considered and adopted thereby establishing an upper boundary of the CTA rate base adjustment for water and wastewater companies.

#### New Jersey National Gas (“NJNG”)

NJNG concurs with the comments of the NJUA that the utilities do not support a CTA in rate-setting proceedings. If the Board does determine to continue with a CTA, a further modification to Staff’s proposal is appropriate. Specifically, NJNG believes that non-regulated Renewable Energy (“RE”) investments made in New Jersey should be excluded from the CTA calculation. (NJNG Comment at 1-2)

#### Associated Construction Contractors of New Jersey (“ACCNJ”)

ACCNJ supports the elimination of the CTA and supports proposals to significantly alter its application. ACCNJ believes that the CTA is a barrier to investments across all areas of critical utility infrastructure and that New Jersey should not remain an outlier as the vast majority of states do not utilize the CTA. (ACCNJ Comment at 1-2)

#### New Jersey Utilities Association (“NJUA”)

NJUA views the proposal as a step in the right direction and as recognition by Staff that the current policy is flawed. Nevertheless, the NJUA, on behalf of its participating member companies, continues to hold that application of any CTA in rate setting proceedings is improper. As demonstrated by its white paper submitted with the comments, the NJUA asserts that the CTA is not applied in the vast majority of regulatory jurisdictions and, in recent years, has been explicitly rejected by a number of regulatory commissions where application of a CTA had previously been considered. Most notably, the CTA may negatively impact investment in utility infrastructure. (NJUA Comment at 1-2).

NJUA claims that the Board not only has a rational basis upon which to base its rejection of a CTA, but it has the legal authority to do so. While it has been argued that an adjustment must be made as a “well-settled” matter of law, NJUA claims that there exists no statute or regulation directing the Board to apply the CTA. Accordingly, a reading of the relevant case law does not reveal a New Jersey court-imposed mandate regarding the application of a CTA. The leading



cases concerning the application of a CTA were decided a number of years ago under a tax regime that is different from that which utility companies are subject to today. Notably, the most recent of those cases in which a CTA was upheld was decided 35 years ago. While the cases cited have upheld the Board's authority to provide for the application of a utility's tax savings resulting from a consolidated tax filing, not one included a mandate or established a standard related to such an application. Rather, the courts deferred to the Board's discretion in regard to ratemaking, rather than imposing a duty to impose any particular methodology. (Id. at 2)

NJUA believes that at a time when the State is focused on increasing investment for infrastructure resilience, the CTA reduces investment in rate base, and negatively impacts a utility's ability to attract investment. Additionally, application of a CTA may result in adjustments that appear to have little or no relationship to the actual current and future tax situation of the utility, potentially resulting in unintended consequences and negative impacts on utility credit quality and cost of capital. Ibid.

While NJUA believes that Staff's proposal certainly appears, under most circumstances, to be less onerous than the current policy, the fact remains that New Jersey is one of a very limited number of regulatory jurisdictions (3 of 53) that currently applies a comprehensive CTA. In addition, application of a CTA runs counter to traditional rate making principles and stifles investment in the State's infrastructure. (Id. at 3)

#### Aqua New Jersey ("AQNJ")

AQNJ supports the elimination of the CTA and notes that New Jersey is one of the few remaining states that utilizes a CTA adjustment. However, the company believes that if the Board continues to utilize a modified CTA, such a policy should be implemented to produce consistent results for all utilities operating in the state. AQNJ believes that the current proposal is a step in the right direction as it appears to be less onerous and punitive in nature and that the modified CTA should be limited by a defined cap. (AQNJ Comment at 1-2)

#### New Jersey American Water ("NJAWC")

Although NJAWC continues to recommend elimination of the CTA in order to bring New Jersey's regulatory policy on this issue in line with the vast majority of other jurisdictions in the United States, NJAWC endorses the comments of the NJUA, and agrees that Staff's proposal is a step in the right direction. (NJAWC Comment at 1-2)

NJAWC reiterates that the Board should not use a CTA in the rate setting process. The CTA is a disincentive for American Water to invest discretionary capital in New Jersey, driving utility discretionary capital away from the State of New Jersey at a time when the state is actively seeking to increase investment in critical infrastructure. The CTA harms New Jersey's reputation of treating businesses fairly, promoting investment, and supporting reliable utility systems at a time when New Jersey utilities are trying to compete for and attract capital for critical infrastructure improvements. Removing this disincentive for investors in affected utilities will make New Jersey a better place to invest in utility infrastructure. It would provide clarity and greater assurance to investors that utility rates are set based on the cost of utility service – not the structure of the corporate parent, or whether it operates in multiple state jurisdictions. (Id. at 2).

NJAWC believes that Staff's proposal provides substantial CTA mitigation to those electric

utilities which have substantial “transmission” operations subject to the jurisdiction of the

Federal Energy Regulatory Commission (“FERC”) by excluding the financial results of the transmission operations from the electric utilities’ CTA calculations. That particular adjustment to the Board’s current methodology provides no mitigation to other utilities. NJAWC accepts Staff’s proposal to limit the CTA calculation to the previous five years, but notes that while this change does help mitigate some of the more onerous impacts of the current adjustment, this time period is no less arbitrary than that used by the current methodology, and could have unintended consequences on utilities due to factors not currently anticipated by Staff. On balance, however, NJAWC supports this shorter time period in preference to any longer time period. NJAWC supports the final change proposed, to apportion the impact of the CTA at a ratio of 75/25 between shareholders and ratepayers, as this proposed change provides substantive mitigation to the non-electric companies. If the proposed ratio is not adopted by the Board, the substantive mitigation contemplated by Staff in making this proposal would be largely lost, providing little to no relief for the non-electrics. (Id. at 2-3).

Utility and Transportation Contractors Association of New Jersey (“UTCA”)

UTCA believes that the CTA is a barrier to investment and is not utilized in the vast majority of states. UTCA also believes that the current CTA approach in New Jersey has resulted in unintended consequences and negative impacts on utility credit quality and cost of capital, which has led to less infrastructure investment. UTCA supports Staff’s proposal and believes that it would significantly scale back the application of the CTA on New Jersey utilities. However, UTCA believes that New Jersey should join the overwhelming majority of other states and eliminate the CTA completely. (UTCA Comments at 1-2).

## **Discussion and Findings**

As noted above, the Board opened this proceeding to review the use of the CTA based on its assessment that the current policy, that has its origins in the 1992 Atlantic City Electric base rate case, is producing results that appear to be out of step with current economic developments and tax laws. The current proceeding was intended to explore possible changes to the CTA policy that would more appropriately address the current economic climate while balancing the needs of the utilities and ratepayers and has included multiple requests for information and comments which were ultimately filed by a number of parties including the utilities, Rate Counsel, NJLEUC and other interested groups. The proposed modifications run the gamut from maintaining the status quo to complete elimination of the CTA.

Several commenters raised the issue of the manner by which the Board should make any modifications to the CTA policy. The Board has flexibility to determine how to proceed in matters presented to it, and may use its discretion to choose the most appropriate manner, including by contested case, rulemaking or informal process, based on the issues raised and the potential effects of the resolution. See, In re Request for Solid Waste Util. Customer Lists, 106 N.J. 508 (1987); In re the Petitions of MP Real Estate LP, Studebaker Submetering, Inc. and the New Jersey Apartment Association for Permission to Check-Meter Water Service, BPU Docket Nos. WO00040254, WO00060360, WO00070510 (June 24, 2004). In determining how to proceed, the Board is mindful that the CTA policy was initially implemented by Board order, with subsequent modifications made in subsequent Board orders. We also note that the interested parties have had four opportunities through the instant matter to submit responses to detailed information requests by Staff and descriptions of their positions on the CTA, limited only by generous response deadlines. The Board conducted a lengthy and transparent process – including making proposed changes accessible for review and comment -- with the active involvement of a wide range of interested parties. Therefore, the Board believes that any further modifications to the CTA policy should be made in the same manner as past modifications and therefore **FINDS** that the implementation of any modification to its current CTA policy should be done by Board order as the calculation of the CTA will be company specific<sup>3</sup>.

Under the Board's longtime policy, when a regulated utility is part of a holding company structure and is included in the consolidated federal income tax filing of its parent company and, as a result, the parent company and the regulated utility (as well as other subsidiaries) pay less federal income taxes than each would pay if it filed separately, these consolidated tax savings are shared with the regulated utility's customers. This policy was implemented to ensure that when ratepayers pay the tax expense of the utility, they receive some credit for those payments if, as a result of the consolidated tax filing, less taxes are ultimately paid.

The methodology utilized to calculate the CTA in the most recent fully litigated rate case has been used by the Board for approximately twenty years.<sup>4</sup> The method used is the so-called

---

<sup>3</sup> This is the same kind of procedure adopted by the Board in determining that no rulemaking was required to adopt standards for discount gas service agreements with the consent of the parties requesting rulemaking here. See, In re a Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, Docket No. GR10100761 (Order dated 8/18/2011)

<sup>4</sup> In re the Petition of Rockland Electric Company for Approval of Changes in Electric Rates, Its Tariff for

"rate base" method which allows the parent company to keep certain tax savings, while requiring the jurisdictional entity to reflect the savings by reducing the rate base upon which the utility's return is determined. The Board determined that this was an appropriate way for the regulated entity to share the benefits resulting from filing a consolidated tax return. The Board reiterates its belief that the rate base methodology remains an appropriate way to share CTA savings. However, the Board believes that to more accurately balance the allocation of the savings, that amount of the calculated CTA savings should be adjusted by utilizing a specific percentage sharing method to be used before any credit is applied.

The current CTA method involves a look-back to 1991 to calculate the required base rate adjustment; however, since that time, both federal income tax laws and the corporate structures of many of the utility companies have changed. It has become clear that the review period has been extended not because of any regulatory rationale but merely by the passage of time. The Board can find no rational basis for the unending extension of the review period, and believes that the implementation of a shorter, fixed review period is necessary to return the impact of the CTA to that which was originally intended. This shorter look-back will mean that the tax adjustment will more closely reflect the current economic state of the utility at the time the CTA is applied.

The Board has determined that, based upon the complete record, there is a sound policy argument for continuing the CTA and concurs with Staff's proposed modifications. We believe that these modifications will accomplish two things: customers will continue to share in the tax savings realized by the utility's parent; and a fixed review period will enable the regulated utilities to better plan the tax implications of their filings and investments.

The Board also believes that it is not appropriate to include in the calculations of CTA the transmission portion of an Electric Distribution Company's ("EDC's") income since those earnings are not subject to the Board's jurisdiction.

These modifications give recognition to the fact that a fundamental tenet of utility regulation is that any methodology used by the regulator must result in an end result that is just and reasonable for both ratepayers and shareholders. The application of the Board's existing CTA policy has resulted in a violation of that fundamental principle. We believe that the modifications proposed by Staff strike an appropriate balance between the interests of the regulated utilities and their customers.

Based on the complete record in this proceeding, the Board **HEREBY FINDS**:

1. New Jersey regulated utilities, as part of holding companies, are required to reduce rates as a result of a CTA applied during base rate cases to reflect certain tax savings realized by the holding company.
2. Utilities that are not structured as holding companies do not incur the CTA. The vast majority of states do not impose a CTA and neither does the Federal Energy Regulatory Commission ("FERC").

---

Electric Service, Its Depreciation Rates, and for Other Relief, BPU Docket No. ER02100724, Order dated April 20, 2004, In re the Petition of Atlantic City Electric Company for Approval of Amendments to its Tariff to Provide for an Increase in Rates and Charges for Electric Service. Phase II, Docket No. ER90091090J, Order dated October 20, 1992.

3. Changes in the Internal Revenue Code to incentivize wind, solar, renewables, manufacturing, and research and development have caused the CTA to increase to the point that continued use in its current form will discourage investment which is contrary to the State's policies for energy and economic growth.
4. The change in the policy will have no impact on individual utility rates until the next base rate case, at which time Rate Counsel and other interveners will evaluate and provide testimony to the Board on the overall reasonableness of those rates.
5. The policy change is being made to encourage economic growth and improve the investment climate in the State.

Therefore, based on the entire record before us, the Board **FINDS** that it is appropriate to continue to include a Consolidated Tax Adjustment in utility base rate filings. The Board the Board also **FINDS** that the current CTA policy shall remain in effect with the following modifications:

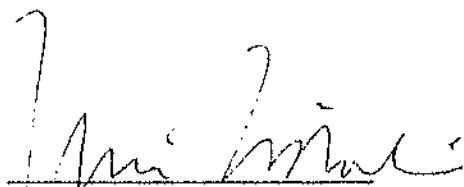
1. The review period for the calculation shall be for five calendar years including any complete year that is included in the test year;
2. The calculated tax adjustment based on that review period shall be allocated so that the revenue requirement of the company is reduced by 25% of the adjustment;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

In ongoing base rate base cases where the record remains open, affected utilities are HEREBY DIRECTED to file the calculation of the CTA as modified by this order within the case where it will be subject to review and comment. In pending rate cases where the record has been closed, the Board shall, following an initial decision by the Office of Administrative Law, reopen the record for the limited purpose of adding the calculation of the CTA as modified by this Order while providing all parties with the opportunity to comment.

All other affected utilities are HEREBY DIRECTED to include a calculation of the CTA, as modified in this Order, as part of their next base rate case petitions. To separately account for FERC regulated transmission services the EDCs are HEREBY DIRECTED to utilize, when available, the taxable income related to those transmission services. When taxable income is not available for the relevant time period, the EDCs are HEREBY DIRECTED to use the relative rate base figures for FERC regulated transmission services and distribution services as a proxy figure for FERC transmission services taxable income.

DATED: 10/22/14

BOARD OF PUBLIC UTILITIES  
BY:

  
JOSEPH L. FIORDALISO  
COMMISSIONER

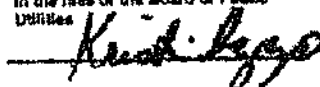
  
MARY-ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
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 Board's Review of the Applicability and Calculation  
of a Consolidated Tax Adjustment  
Docket No. EO12121072**

**SERVICE LIST**

Division of Rate Counsel  
140 East Front Street  
4<sup>th</sup> Floor P.O. Box 003  
Trenton, NJ 08625

Stefanie Brand, Esq. – Director  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Ami Morita  
[amorita@rpa.state.nj.us](mailto:amorita@rpa.state.nj.us)

Diane Schulze  
[dschulze@rpa.state.nj.us](mailto:dschulze@rpa.state.nj.us)

Susan McClure  
[smcclure@rpa.state.nj.us](mailto:smcclure@rpa.state.nj.us)

Christine Juarez  
[cjuarez@rpa.state.nj.us](mailto:cjuarez@rpa.state.nj.us)

Lisa Gurkas  
[lgurkas@rpa.state.nj.us](mailto:lgurkas@rpa.state.nj.us)

Andrea Crane  
[ctcolumbia@aol.com](mailto:ctcolumbia@aol.com)

Lou Walters  
Atlantic City Sewerage Company  
1200 Atlantic Avenue  
Suite 300  
Atlantic City, NJ 08404  
[lwalters@acsewerage.com](mailto:lwalters@acsewerage.com)

Mike Sgro  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[michael.sgro@amwater.com](mailto:michael.sgro@amwater.com)

Frank Simpson  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[Frank.Simpson@amwater.com](mailto:Frank.Simpson@amwater.com)

Bill Davis  
Aqua New Jersey Water Company  
10 Black Forest Road  
Hamilton, NJ 08691  
[WBDavis@aquaamerica.com](mailto:WBDavis@aquaamerica.com)

Jim Cagle  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640-1716  
[Jim.cagle@unitedwater.com](mailto:Jim.cagle@unitedwater.com)

Eric Olsen  
Shorelands Water Company  
1709 Union Avenue  
Hazlet, NJ 07730  
[eolsen@shorelandswater.com](mailto:eolsen@shorelandswater.com)

Dave Ern, President  
Gordon's Corner Water Company  
27 Vanderberg Road  
Marlboro, NJ 07746  
[dgern@gordonscornerwater.com](mailto:dgern@gordonscornerwater.com)

William Davis, President  
Aqua NJ  
10 Black Forest Road  
Hamilton, NJ 08691

David Watson  
Acting Superintendent  
Borough of Berlin Water  
59 South White Horse Pike  
Berlin, NJ 08009

John Walls, Supervisor  
City of Bordentown Water  
324 Farnsworth Avenue  
Bordentown, NJ 08504

Burt Lundbert, President  
Cedar Glen Lakes Water  
Michigan Avenue  
Whiting, NJ 08759

Robert Cutter  
Business Administrator  
Town of Clinton Water  
43 Leigh Street  
Post Office 5194  
Clinton, NJ 08809

Luis Acevedo  
Interim Superintendent  
Town of Dover Water  
100 Princeton Avenue  
Dover, NJ 07801  
James Carroll, Manager  
Fayson Lakes Water  
160 Boonton Avenue  
Kinnelon, NJ 07405

Dorothy Gorman, Owner  
Forest Lakes Water  
45 Sleepy Hollow Road  
Post Office Box 264  
Andover, NJ 07821

Jeffrey Fuller, President  
Lake Lenape Water  
83 Eagle Chase  
Woodbury, NY 11797

John Brunetti, President  
Midtown Water  
1655 US Highway 9  
Red Oak Lane  
Old Bridge, NJ 08857

Steven Lubertozzi  
VP & Treasurer  
Montague Water  
2335 Sanders Road  
Northbrook, Illinois 60062

Henry Schwarz, President  
Mt. Olive Villages Water  
200 Central Avenue  
Mountainside, NJ 07092

David Baker, President  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034

Bill Beattie  
Director Operations  
Borough of Park Ridge  
53 Park Avenue  
Park Ridge, NJ 07565

Dennis Doll  
Chairman  
Pinelands Water  
1500 Ronson Road  
Iselin, NJ 08830

Frank J. Moritz, Director  
Village of Ridgewood Water  
13 North Maple Avenue  
Ridgewood, NJ 07451

John Hosking, President  
Roxbury Water  
79 Sunset Strip  
Post Office Box 560  
Succasunna, NJ 07876

Roger Hall, President  
Roxiticus Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Roger Hall  
Vice President  
SB Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Daniel T. Stephano  
Acting Vice President  
Seaview Water  
102 South Manor Avenue  
Longport, NJ 08403



Samuel J. Faiello, President  
Shore Water  
105 23<sup>rd</sup> Avenue  
South Seaside Park, NJ 08752

Eric Olsen, President  
Shorelands Water  
1709 Union Avenue  
Hazlet, NJ 07730

David Simmons, President  
Simmons Water  
Post Office Box 900  
Branchville, NJ 07826

Dilip Patel, Superintendent  
Trenton Water Works  
Post Office Box 528  
Trenton, NJ 08604

Gary Prettyman  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640

Walton Hill  
United Water Toms River  
15 Adafre Avenue  
Toms River, NJ 08733

Thomas Dillon, President  
Environmental Disposal  
601 Route 202  
Bedminster, NJ 07921

Jeffrey Goldstein, VP  
Oakwood Village Sewer  
308 Vreeland Road  
Florham Park, NJ 07932

Jim P. Roberts  
Regulatory Affairs  
CenturyLink  
240 North 3<sup>rd</sup> Street  
Suite 300  
Harrisburg, PA 17101  
[Jim.roberts@CentruryLink.com](mailto:Jim.roberts@CentruryLink.com)

Scott Sommerer, Director  
Regulatory Compliance & Strategy  
WVT Communications  
Post Office Box 592  
47 Main Street  
Warwick, NY 10990  
[s.sommerer@wvtc.com](mailto:s.sommerer@wvtc.com)

Ira G. Megdal, Esq.  
Cozen O'Connor  
457 Haddonfield Road  
Suite 300  
Cherry Hill, NJ 08002  
[imegdal@cozen.com](mailto:imegdal@cozen.com)

John L. Carley, Esq.  
Assistant General Counsel  
Consolidated Edison of NY, Inc.  
Law Department, Room 1815-S  
4 Irving Place  
New York, NY 10003  
[CarleyJ@coned.com](mailto:CarleyJ@coned.com)

Tamara L. Linde, Esq.  
Vice President – Regulatory  
PSEG Services Corporation  
80 Park Place  
TSG  
Newark, NJ 07102  
[tamara.linde@pseg.com](mailto:tamara.linde@pseg.com)

Mary Patricia Keefe, Esq.  
Vice President, Regulatory Affairs  
Elizabethtown Gas  
300 Connell Drive, Suite 3000  
Berkeley Heights, NJ 07922  
[mkeefe@aglresources.com](mailto:mkeefe@aglresources.com)

Philip J. Passanante, Esq.  
Associate General Counsel  
ACE- 92DC42  
500 North Wakefield Drive  
P.O. Box 6066  
Newark, DE 19714-6066  
[Philip.Passanante@pepcoholdings.com](mailto:Philip.Passanante@pepcoholdings.com)

Gregory Eisenstark, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960  
[geisenstark@morganlewis.com](mailto:geisenstark@morganlewis.com)

Tracey Thayer, Esq.  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
Wall, NJ 07719  
TThayer@NJNG.com

Roger E. Pedersen  
Manager, NJ Regulatory Affairs  
External Issues and Compliance  
ACE- 63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330

Michael J. Connolly, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960

Kristi Izzo  
Secretary of the Board  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Tricia Caliguire  
Chief Counsel  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Maria Moran, Director  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jerry May, Director  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Dennis Moran, Director  
Division of Audits  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Eric Hartsfield, Director  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jake Gertsman  
Legal Specialist  
Counsel's Office  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Michael Kammer, Chief  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Kenneth Welch  
Administrative Analyst  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jackie Galka  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Babette Tenzer, DAG  
Department of Law and Public Safety  
Division of Law  
124 Halsey St. 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101

Wendy E. Stark, Esq.  
Deputy General Counsel  
Pepco Holdings, Inc. – EP1132  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[westark@pepcoholdings.com](mailto:westark@pepcoholdings.com)

Mindy L. Herman  
Director of Regulatory Services  
Pepco Holdings, Inc. – EP9020  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[mlherman@pepcoholdings.com](mailto:mlherman@pepcoholdings.com)

Steven R. Cocchi, Esq.  
South Jersey Gas Company  
1 South Jersey Plaza  
Folsom, New Jersey 08037  
[scocchi@sjindustries.com](mailto:scocchi@sjindustries.com)

Martin Rothfelder, Esq.  
PSEG Services Corporation  
80 Park Place  
TSG  
Newark, NJ 07102  
[martin.rothfelder@pseg.com](mailto:martin.rothfelder@pseg.com)

Kenneth T. Maloney  
Cullen and Dykman LLP  
1101 Fourteenth St., N.W.  
Suite 550  
Washington, DC 20005  
[kmaloney@cullenanddykman.com](mailto:kmaloney@cullenanddykman.com)

## **ATTACHMENT 1**



**State of New Jersey**  
BOARD OF PUBLIC UTILITIES  
44 SO. CLINTON AVENUE  
9<sup>TH</sup> FLOOR – P.O. BOX 350  
TRENTON, NEW JERSEY 08625-0350  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

**CHRIS CHRISTIE**  
GOVERNOR

**ROBERT M. HANNA**  
PRESIDENT

**KIM GUADAGNO**  
Lt. Governor

**IN THE MATTER OF THE BOARD'S REVIEW OF THE  
APPLICABILITY AND CALCULATION OF A CONSOLIDATED TAX  
ADJUSTMENT  
GENERIC PROCEEDING  
DOCKET NO. EO12121072  
Notice of Opportunity to Comment**

On January 23, 2013, the New Jersey Board of Public Utilities ("Board") directed Board Staff to convene all interested parties to participate in a generic proceeding to review issues related to consolidated tax adjustment ("CTA") in order to determine: 1) the use by the Board of the consolidated tax savings adjustment policy ; 2) how to calculate the amount of savings that arise from filing a consolidated return; 3) how these savings should be equitably shared between the regulated company and the ratepayers; and 4) if a rulemaking proceeding should be undertaken to establish utility-wide or statewide standards with respect to the implementation of a consolidated tax adjustment policy.

Board Staff has determined that the appropriate initial step in this process is to gather information and data from all interested parties. Therefore, Staff is requesting responses to the following questions by Friday May 3, 2013:

1. Please explain your company or organization's position on whether the Board should utilize CTA.
2. If the Board continues the use of CTA, please describe and detail what changes to CTA methodology, if any, should be adopted by the Board.
3. Please calculate a CTA for your company utilizing the current Board methodology set forth in the Board's April 20, 2004 order, *I/M/O the Verified Petition of Rockland Electric Company for the Recovery of its Deferred Balances*

*and the Establishment of Non-Delivery Rates Effective August 1, 2003 and I/M/O the Verified Petition of Rockland Electric Company for Approval of Changes in Electric Rates, its Tariff for Electric Service, its Depreciation Rates, and for Other Relief, BPU Docket Nos. ER02080614 and ER02100724.*

4. If applicable, please provide the actual amount of the CTA included in your company's last base rate case.

Please address responses to Kristi Izzo, Board Secretary and submit in electronic and hard copy format as follows:

- The electronic copy shall be submitted in Microsoft WORD format, or in a format that can be easily converted to WORD, by e-mailing it to the following e-mail address: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us). Please put the following in the subject field of the e-mail: "CTA Generic Proceeding Comments" followed by your company or association name.
- The paper copy shall be delivered to:

New Jersey Board of Public Utilities  
Kristi Izzo, Secretary  
44 South Clinton Avenue, 9th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

Please be advised that any information claimed to be confidential should be filed in accordance with the Board's confidentiality rules at N.J.A.C.14:8-12 *et seq.*

Once Board Staff has reviewed all responses, additional questions may be presented to individual respondents or to all interested parties. Following this review, Board Staff will announce a schedule for hearings to provide all interested parties with the opportunity to provide testimony on the CTA issues.

This notice will be posted on the CTA Generic Proceeding page on the BPU website at <http://www.nj.gov/bpu/about/divisions/energy/consolidatedtaxadjustment.html>. The responses requested above, all other documents submitted to the Board in this proceeding, and all subsequent notices will be posted on this page after they are submitted.

Dated: March 6, 2013

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

**SERVICE LIST**

Lou Walters  
Atlantic City Sewerage Company  
1200 Atlantic Avenue  
Suite 300  
Atlantic City, NJ 08404  
[lwalters@acsewerage.com](mailto:lwalters@acsewerage.com)

Mike Sgro  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[michael.sgro@amwater.com](mailto:michael.sgro@amwater.com)

Frank Simpson  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[Frank.Simpson@amwater.com](mailto:Frank.Simpson@amwater.com)

Bill Davis  
Aqua New Jersey Water Company  
10 Black Forest Road  
Hamilton, NJ 08691  
[WBDavis@aquaamerica.com](mailto:WBDavis@aquaamerica.com)

Jim Cagle  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640-1716  
[Jim.cagle@unitedwater.com](mailto:Jim.cagle@unitedwater.com)

Eric Olsen  
Shorelands Water Company  
1709 Union Avenue  
Hazlet, NJ 07730  
[eolsen@shorelandswater.com](mailto:eolsen@shorelandswater.com)

Dave Ern, President  
Gordon's Corner Water Company  
27 Vanderberg Road  
Marlboro, NJ 07746  
[dgern@gordonscornerwater.com](mailto:dgern@gordonscornerwater.com)

William Davis, President  
Aqua NJ  
10 Black Forest Road  
Hamilton, NJ 08691

David Watson  
Acting Superintendent  
Borough of Berlin Water  
59 South White Horse Pike  
Berlin, NJ 08009

John Walls, Supervisor  
City of Bordentown Water  
324 Farnsworth Avenue  
Bordentown, NJ 08504

Burt Lundbert, President  
Cedar Glen Lakes Water  
Michigan Avenue  
Whiting, NJ 08759

Robert Cutter  
Business Administrator  
Town of Clinton Water  
43 Leigh Street  
Post Office 5194  
Clinton, NJ 08809

Luis Acevedo  
Interim Superintendent  
Town of Dover Water  
100 Princeton Avenue  
Dover, NJ 07801

James Carroll, Manager  
Fayson Lakes Water  
160 Boonton Avenue  
Kinnelon, NJ 07405

Dorothy Gorman, Owner  
Forest Lakes Water  
45 Sleepy Hollow Road  
Post Office Box 264  
Andover, NJ 07821

Jeffrey Fuller, President  
Lake Lenape Water  
83 Eagle Chase  
Woodbury, NY 11797

John Brunetti, President  
Midtown Water  
1655 US Highway 9  
Red Oak Lane  
Old Bridge, NJ 08857

Steven Lubertozzi  
VP & Treasurer  
Montague Water  
2335 Sanders Road  
Northbrook, Illinois 60062

Henry Schwarz, President  
Mt. Olive Villages Water  
200 Central Avenue  
Mountainside, NJ 07092

David Baker, President  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034

Bill Beattie  
Director Operations  
Borough of Park Ridge  
53 Park Avenue  
Park Ridge, NJ 07565

Dennis Doll  
Chairman  
Pinelands Water  
1500 Ronson Road  
Iselin, NJ 08830

Frank J. Moritz, Director  
Village of Ridgewood Water  
13 North Maple Avenue  
Ridgewood, NJ 07451

John Hosking, President  
Roxbury Water  
79 Sunset Strip  
Post Office Box 560  
Succasunna, NJ 07876

Roger Hall, President  
Roxiticus Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Roger Hall  
Vice President  
SB Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Daniel T. Stephano  
Acting Vice President  
Seaview Water  
102 South Manor Avenue  
Longport, NJ 08403

Samuel J. Faiello, President  
Shore Water  
105 23<sup>rd</sup> Avenue  
South Seaside Park, NJ 08752

Eric Olsen, President  
Shorelands Water  
1709 Union Avenue  
Hazlet, NJ 07730

David Simmons, President  
Simmons Water  
Post Office Box 900  
Branchville, NJ 07826

Dilip Patel, Superintendent  
Trenton Water Works  
Post Office Box 528  
Trenton, NJ 08604

Robert Iacullo, President  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640



Daniel Pfeiderer  
Regional Manager  
United Water Toms River  
15 Adafre Avenue  
Toms River, NJ 08733

Jeffrey Goldstein, VP  
Oakwood Village Sewer  
308 Vreeland Road  
Florham Park, NJ 07932

Scott Sommerer, Director  
Regulatory Compliance & Strategy  
WVT Communications  
Post Office Box 592  
47 Main Street  
Warwick, NY 10990  
[s.sommerer@wvtc.com](mailto:s.sommerer@wvtc.com)

John L. Carley, Esq.  
Assistant General Counsel  
Consolidated Edison of NY, Inc.  
Law Department, Room 1815-S  
4 Irving Place  
New York, NY 10003

Mary Patricia Keefe, Esq.  
Vice President, Regulatory Affairs  
300 Connell Drive, Suite 3000  
Berkeley Heights, NJ 07922

Gregory Eisenstark, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960  
[geisenstark@morganlewis.com](mailto:geisenstark@morganlewis.com)

Roger E. Pedersen  
Manager, NJ Regulatory Affairs  
External Issues and Compliance  
ACE- 63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330

Thomas Dillon, President  
Environmental Disposal  
601 Route 202  
Bedminster, NJ 07921

Jim P. Roberts  
Regulatory Affairs  
CenturyLink  
240 North 3<sup>rd</sup> Street  
Suite 200  
Harrisburg, PA 17101  
[Jim.roberts@CenturyLink.com](mailto:Jim.roberts@CenturyLink.com)

Ira G. Megdal, Esq.  
Cozen O'Connor  
457 Haddonfield Road  
Suite 300  
Cherry Hill, NJ 08002  
[IMegdal@cozen.com](mailto:IMegdal@cozen.com)

Tamara L. Linde, Esq.  
Vice President – Regulatory  
PSEG Services Corporation  
80 Park Place  
TSG  
Newark, NJ 07102  
[Tamara.Linde@pseg.com](mailto:Tamara.Linde@pseg.com)

Philip J. Passanante, Esq.  
Associate General Counsel  
ACE- 92DC42  
500 North Wakefield Drive  
P.O. Box 6066  
Newark, DE 19714-6066  
[Philip.Passanante@pepcoholdings.com](mailto:Philip.Passanante@pepcoholdings.com)

Tracey Thayer, Esq.  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
Wall, NJ 07719  
[TThayer@NJNG.com](mailto:TThayer@NJNG.com)

Michael J. Connolly, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960

Kristi Izzo  
Secretary of the Board  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Tricia Caliguire  
Chief Counsel  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Maria Moran, Director  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jerry May, Director  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Dennis Moran, Director  
Division of Audits  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Eric Hartsfield, Director  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jake Gertsman  
Legal Specialist  
Counsel's Office  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Michael Kammer, Chief  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Kenneth Welch  
Administrative Analyst  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

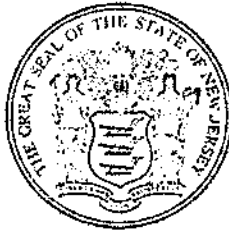
Jackie Galka  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Babette Tenzer, DAG  
Department of Law and Public Safety  
Division of Law  
124 Halsey St. 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101

Wendy E. Stark, Esq.  
Deputy General Counsel  
Pepco Holdings, Inc. – EP1132  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[westark@pepcoholdings.com](mailto:westark@pepcoholdings.com)

Mindy L. Herman  
Director of Regulatory Services  
Pepco Holdings, Inc. – EP9020  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[mlherman@pepcoholdings.com](mailto:mlherman@pepcoholdings.com)

## **ATTACHMENT 2**



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Kristi Izzo  
Secretary of the Board  
Tel. # (609) 292-1599

## **NOTICE<sup>1</sup>**

### **IN THE MATTER OF THE BOARD'S REVIEW OF THE APPLICABILITY AND CALCULATION OF A CONSOLIDATED TAX ADJUSTMENT Generic Proceeding Docket No. EO12121072**

#### **Notice of Opportunity to Provide Additional Information**

On January 23, 2013, the Board of Public Utilities ("Board") directed Board Staff to convene all interest parties to participate in a generic proceeding to review issues related to consolidated tax saving adjustment ("CTA") in order to determine: 1) the use by the Board of the consolidated tax saving adjustment policy; 2) how to calculate the amount of savings that arise from filing a consolidated return; 3) how these savings should be equitably shared between the regulated company and the ratepayers; and 4) if a rulemaking proceeding should be undertaken to establish utility-wide or statewide standards with respect to the implementation of a consolidated tax adjustment policy.

Board Staff took the initial step in this process by requesting information via a Notice of Opportunity to Comment dated March 6, 2013. The response from the Division of Rate Counsel raised questions which Board Staff believes may provide information pertinent to the shaping of the Board's CTA policy. Therefore, Staff is requesting responses to the following questions by September 4, 2013:

Please provide the following information:

- a. A copy of any tax sharing agreement relating to the filing of a consolidated income tax return;
- b. The year in which the utility was first included in a consolidated tax return;
- c. The total amount paid by the utility to its parent company for federal income taxes in each year since 1991;
- d. The total amount paid by all members of the consolidated income tax group to the parent company relating to federal income taxes, in each year since 1991;

---

<sup>1</sup> Not a paid legal advertisement.

- e. The amount paid to each loss company by the parent, in each year since 1991;
- f. The total amount paid by the consolidated entity to the IRS for federal income taxes in each year since 1991;
- g. The amount of bonus depreciation taken by each member of the consolidated income tax group in each year since 1991;
- h. The amount of Alternative Minimum Taxes paid by the consolidated income tax group in each year since 1991;
- i. The amount of any tax loss carryforward available to the consolidated group and the period(s) over which these tax loss carryforwards are available to be used by the consolidated group;
- j. A brief description of each company included in the consolidated income tax group since 1991, along with an indication of whether each company is regulated or non-regulated;
- k. The reason why a company that was previously included in the consolidated income tax group is no longer included in the group;
- l. All workpapers and calculations relating to the calculation of the CTA as requested in the Notice;
- m. The federal income taxes (both current and deferred) reported by the consolidated income tax group on the parent company's Annual Report, by year since 1991;
- n. The federal income taxes (both current and deferred) by the utility, by year since 1991;

If your company has already provided some, or all, of the abovementioned information, please direct the Board's attention to its location within your previously submitted comments.

Please address responses to Kristi Izzo, Board Secretary and submit in electronic and hard copy format as follows:

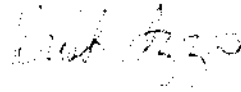
- The electronic copy shall be submitted in Microsoft WORD format, or in a format that can be easily converted to WORD, by e-mailing it to the following e-mail address: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us). Please put the following in the subject field of the e-mail: "CTA Generic Proceeding Additional Comments" followed by your company or association name.
- The Paper copy shall be delivered to:

New Jersey Board of Public Utilities  
Kristi Izzo, Secretary  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, N.J. 08625-0350

Please be advised that any information claimed to be confidential should be filed in accordance with the Board's confidentiality rules at N.J.A.C. 14:1-12 et seq.

Once Board Staff has reviewed all responses, additional questions may be presented to individual respondents or to all interested parties. Following this review, Board Staff will announce a schedule for hearing to provide all interested parties with the opportunity to provide testimony on the CTA issues.

This notice will be posted on the CTA Generic Proceeding page on the BPU website at <http://www.state.nj.us/bpu/about/divisions/energy/consolidatedtaxadjustment.html>. The responses requested above, all other documents submitted to the Board in the proceeding, and all subsequent notices will be posted on this page after they are submitted.



---

Kristi Izzo  
Secretary of the Board

Dated: July 25, 2013

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

**SERVICE LIST**

Lou Walters  
Atlantic City Sewerage Company  
1200 Atlantic Avenue  
Suite 300  
Atlantic City, NJ 08404  
[lwalters@acsewerage.com](mailto:lwalters@acsewerage.com)

Mike Sgro  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[michael.sgro@amwater.com](mailto:michael.sgro@amwater.com)

Frank Simpson  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[Frank.Simpson@amwater.com](mailto:Frank.Simpson@amwater.com)

Bill Davis  
Aqua New Jersey Water Company  
10 Black Forest Road  
Hamilton, NJ 08691  
[WBDavis@aquaaamerica.com](mailto:WBDavis@aquaaamerica.com)

Jim Cagle  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640-1716  
[Jim.cagle@unitedwater.com](mailto:Jim.cagle@unitedwater.com)

Eric Olsen  
Shorelands Water Company  
1709 Union Avenue  
Hazlet, NJ 07730  
[eolsen@shorelandswater.com](mailto:eolsen@shorelandswater.com)

Dave Ern, President  
Gordon's Corner Water Company  
27 Vanderberg Road  
Marlboro, NJ 07746  
[dgern@gordonscornerwater.com](mailto:dgern@gordonscornerwater.com)

William Davis, President  
Aqua NJ  
10 Black Forest Road  
Hamilton, NJ 08691

David Watson  
Acting Superintendent  
Borough of Berlin Water  
59 South White Horse Pike  
Berlin, NJ 08009

John Walls, Supervisor  
City of Bordentown Water  
324 Farnsworth Avenue  
Bordentown, NJ 08504

Burt Lundbert, President  
Cedar Glen Lakes Water  
Michigan Avenue  
Whiting, NJ 08759

Robert Cutter  
Business Administrator  
Town of Clinton Water  
43 Leigh Street  
Post Office 5194  
Clinton, NJ 08809

Luis Acevedo  
Interim Superintendent  
Town of Dover Water  
100 Princeton Avenue  
Dover, NJ 07801  
James Carroll, Manager  
Fayson Lakes Water  
160 Boonton Avenue  
Kinneelon, NJ 07405

Dorothy Gorman, Owner  
Forest Lakes Water  
45 Sleepy Hollow Road  
Post Office Box 264  
Andover, NJ 07821



Jeffrey Fuller, President  
Lake Lenape Water  
83 Eagle Chase  
Woodbury, NY 11797

John Brunetti, President  
Midtown Water  
1655 US Highway 9  
Red Oak Lane  
Old Bridge, NJ 08857

Steven Lubertozi  
VP & Treasurer  
Montague Water  
2335 Sanders Road  
Northbrook, Illinois 60062

Henry Schwarz, President  
Mt. Olive Villages Water  
200 Central Avenue  
Mountainside, NJ 07092

David Baker, President  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034

Bill Beattie  
Director Operations  
Borough of Park Ridge  
53 Park Avenue  
Park Ridge, NJ 07565

Dennis Doll  
Chairman  
Pinelands Water  
1500 Ronson Road  
Iselin, NJ 08830

Frank J. Moritz, Director  
Village of Ridgewood Water  
13 North Maple Avenue  
Ridgewood, NJ 07451

John Hosking, President  
Roxbury Water  
79 Sunset Strip  
Post Office Box 560  
Succasunna, NJ 07876

Roger Hall, President  
Roxiticus Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Roger Hall  
Vice President  
SB Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Daniel T. Stephano  
Acting Vice President  
Seaview Water  
102 South Manor Avenue  
Longport, NJ 08403

Samuel J. Faiello, President  
Shore Water  
105 23<sup>rd</sup> Avenue  
South Seaside Park, NJ 08752

Eric Olsen, President  
Shorelands Water  
1709 Union Avenue  
Hazlet, NJ 07730

David Simmons, President  
Simmons Water  
Post Office Box 900  
Branchville, NJ 07826

Dilip Patel, Superintendent  
Trenton Water Works  
Post Office Box 528  
Trenton, NJ 08604

Robert Iacullo, President  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640

Daniel Pfeiderer  
Regional Manager  
United Water Toms River  
15 Adafre Avenue  
Toms River, NJ 08733

Thomas Dillon, President  
Environmental Disposal  
601 Route 202  
Bedminster, NJ 07921

Jeffrey Goldstein, VP  
Oakwood Village Sewer  
308 Vreeland Road  
Florham Park, NJ 07932

Jim P. Roberts  
Regulatory Affairs  
CenturyLink  
240 North 3<sup>rd</sup> Street  
Suite 200  
Harrisburg, PA 17101  
[Jim.roberts@CentruryLink.com](mailto:Jim.roberts@CentruryLink.com)

Scott Sommerer, Director  
Regulatory Compliance & Strategy  
WVT Communications  
Post Office Box 592  
47 Main Street  
Warwick, NY 10990  
[s.sommerer@wvtc.com](mailto:s.sommerer@wvtc.com)

Ira G. Megdal, Esq.  
Cozen O'Connor  
457 Haddonfield Road  
Suite 300  
Cherry Hill, NJ 08002

John L. Carley, Esq.  
Assistant General Counsel  
Consolidated Edison of NY, Inc.  
Law Department, Room 1815-S  
4 Irving Place  
New York, NY 10003

Tamara L. Linde, Esq.  
Vice President – Regulatory  
PSEG Services Corporation  
80 Park Place  
TSG  
Newark, NJ 07102

Mary Patricia Keefe, Esq.  
Vice President, Regulatory Affairs  
300 Connell Drive, Suite 3000  
Berkeley Heights, NJ 07922

Philip J. Passanante, Esq.  
Associate General Counsel  
ACE- 92DC42  
500 North Wakefield Drive  
P.O. Box 6066  
Newark, DE 19714-6066

Gregory Eisenstark, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960

Tracey Thayer, Esq.  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
Wall, NJ 07719

Roger E. Pedersen  
Manager, NJ Regulatory Affairs  
External Issues and Compliance  
ACE- 63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330

Michael J. Connolly, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960

Kristi Izzo  
Secretary of the Board  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Tricia Caliguire  
Chief Counsel  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Maria Moran, Director  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jerry May, Director  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Dennis Moran, Director  
Division of Audits  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Eric Hartsfield, Director  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jake Gertsman  
Legal Specialist  
Counsel's Office  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Michael Kammer, Chief  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Kenneth Welch  
Administrative Analyst  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Jackie Galka  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue  
9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Babette Tenzer, DAG  
Department of Law and Public Safety  
Division of Law  
124 Halsey St. 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101

Wendy E. Stark, Esq.  
Deputy General Counsel  
Pepco Holdings, Inc. – EP1132  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[westark@pepcoholdings.com](mailto:westark@pepcoholdings.com)

Mindy L. Herman  
Director of Regulatory Services  
Pepco Holdings, Inc. – EP9020  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[mlherman@pepcoholdings.com](mailto:mlherman@pepcoholdings.com)

Matthew Elias  
Analyst  
Green Arrow  
666 Fifth Avenue, 9th Floor  
New York, NY 10103  
(212) 708-4032  
Matthew.Elias@greenarrow-ilc.com

## **ATTACHMENT 3**



**State of New Jersey**  
BOARD OF PUBLIC UTILITIES  
44 SO. CLINTON AVENUE  
9<sup>TH</sup> FLOOR -- P.O. BOX 350  
TRENTON, NEW JERSEY 08625-0350

**CHRIS CHRISTIE**  
GOVERNOR

**KIM GUADAGNO**  
LT. GOVERNOR

**TRICIA CALIGUIRE**  
CHIEF COUNSEL  
TEL: (609)292-1482  
FAX: (609)292-2264

November 1, 2013

**To:** Attached Service List

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

Dear Sir/Madam:

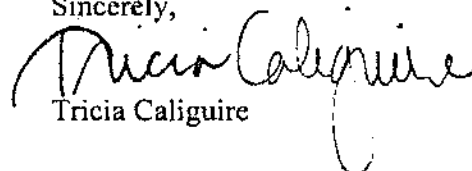
Following review of the materials submitted in this matter, the Board of Public Utilities ("BPU") staff has additional questions regarding the potential impact of a Consolidated Tax Adjustment on the revenue requirements of your utility; accordingly, I am attaching two informal data requests. The first data request is generally self-explanatory, seeking the same information and in the same format as Staff has requested in previous base rate cases. The second data request applies only to utilities with transmission facilities subject to Federal Energy Regulatory Commission rate jurisdiction.

Your company may have provided some of this data, or possibly all of it in another form, in responses to the BPU's July 25, 2013 Notice of Opportunity to Provide Additional Information. Nevertheless, Staff requests this information in the format set forth in the attached data requests.

Finally, Staff requests an explanation of the impact on your company, if any, of the decision of the United States Court of Appeals for the Federal Circuit in Consol. Edison Co. of N.Y. v. United States, 703 F.3d 1367 (Fed. Cir. 2013), affirming the IRS position as to the tax treatment of cross-border leases.

Please respond to these data requests within two (2) weeks, on or before November 15, 2013. Any information submitted in response to this request which is claimed to be confidential shall be provided in the form and manner prescribed by the Board's regulations at N.J.A.C. 14:1-12 et seq., unless such information is to be kept confidential pursuant to court or administrative order.

Sincerely,

  
Tricia Caliguire

TC:mg

***//M/O the Board's review of the applicability and calculation of a consolidated tax adjustment – Generic  
Proceeding  
BPU Docket No. EO12121072***

**S-CTS- 1 Consolidated Tax Savings – All Utilities**

Please provide the below listed information in an Excel spreadsheet. In order to get the information in a standard format, we ask that you use the following format for this spreadsheet. Please type your utility company name at the top of the spreadsheet with the heading, "Schedule of Taxable Income / (Loss)" below it. Below the heading, please list each year from 1991 through 2012 across the top of the spreadsheet with a "Total" column on the right side. Please list the name of each affiliate down the left side of the spreadsheet and then the following row headings below the affiliate names: "Total Consolidated Taxable Income", "Alternative Minimum Tax (AMT)" "Tax Rate", and "Federal Tax Liability". Please use formulas for all calculations.

- a) For each of the years 1991 through 2012 separately and in total, please provide the taxable income / (loss) for the utility and each its affiliates included in the consolidated tax return (broken down by company), the total consolidated taxable income, any alternative minimum tax payments, the federal income tax rate, and the federal tax liability. Also, please indicate which of these companies are regulated by placing an "R" in the column to the left of the affiliate names.
- b) If actual data is not available for the current year, please provide estimated data for the current year in the same format and provide actual data as soon as it becomes available.

**S-CTS- 2 Consolidated Tax Savings – Electric and Electric & Gas Combination Utilities Only**

a) Please provide the below listed information in an Excel spreadsheet. In order to get the information in a standard format, we ask that you use the following format for this spreadsheet. Please type your utility company name at the top of the spreadsheet with the heading, "Schedule of Distribution Taxable Income / (Loss)" below it. Please list the years, 1991 through 2012 along the left hand side along with a "Total" row below the years. Please provide the below listed information using the following column headings. Electric only (non-gas) companies may leave column B blank. If your company separately accounts for the operations of the generation business, please use actual, rather than calculated data where actual data is available and indicate this in your response. Please use formulas for all calculations.

- (A) Total Taxable Income [B+C]
- (B) Gas Operations Taxable Income
- (C) Electric Operations Taxable Income
- (D) Electric Distribution Share of Taxable Income [C\*L]
- (E) Generation Share of Taxable Income [C\*M]
- (F) Transmission Share of Taxable Income [C\*N]
- (G) Combined Gas & Electric Distribution Taxable Income [B+D]
- (H) Electric Distribution Net Plant
- (I) Generation Net Plant
- (J) Transmission Net Plant
- (K) Total Electric Net Plant [H+I+J]
- (L) Distribution Plant % [H/K]
- (M) Generation Plant % [I/K]
- (N) Transmission Plant % [J/K]

- b) If actual data is not available for the current year, please provide estimated data for the current year in the same format and provide actual data as soon as it becomes available.

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

**SERVICE LIST**

Lou Walters  
Atlantic City Sewerage Company  
1200 Atlantic Avenue  
Suite 300  
Atlantic City, NJ 08404  
[lwalters@acsewerage.com](mailto:lwalters@acsewerage.com)

Mike Sgro  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[michael.sgro@amwater.com](mailto:michael.sgro@amwater.com)

Frank Simpson  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[Frank.Simpson@amwater.com](mailto:Frank.Simpson@amwater.com)

Bill Davis  
Aqua New Jersey Water Company  
10 Black Forest Road  
Hamilton, NJ 08691  
[WBDavis@aguaamerica.com](mailto:WBDavis@aguaamerica.com)

Jim Cagle  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640-1716  
[Jim.cagle@unitedwater.com](mailto:Jim.cagle@unitedwater.com)

Eric Olsen  
Shorelands Water Company  
1709 Union Avenue  
Hazlet, NJ 07730  
[eolsen@shorelandswater.com](mailto:eolsen@shorelandswater.com)

Dave Ern, President  
Gordon's Corner Water Company  
27 Vanderberg Road  
Marlboro, NJ 07746  
[dgern@gordonscornerwater.com](mailto:dgern@gordonscornerwater.com)

William Davis, President  
Aqua NJ  
10 Black Forest Road  
Hamilton, NJ 08691

David Watson  
Acting Superintendent  
Borough of Berlin Water  
59 South White Horse Pike  
Berlin, NJ 08009

John Walls, Supervisor  
City of Bordentown Water  
324 Farnsworth Avenue  
Bordentown, NJ 08504

Burt Lundbert, President  
Cedar Glen Lakes Water  
Michigan Avenue  
Whiting, NJ 08759

Robert Cutter  
Business Administrator  
Town of Clinton Water  
43 Leigh Street  
Post Office 5194  
Clinton, NJ 08809

Luis Acevedo  
Interim Superintendent  
Town of Dover Water  
100 Princeton Avenue  
Dover, NJ 07801  
James Carroll, Manager  
Fayson Lakes Water  
160 Boonton Avenue  
Kinnelon, NJ 07405

Dorothy Gorman, Owner  
Forest Lakes Water  
45 Sleepy Hollow Road  
Post Office Box 264  
Andover, NJ 07821



Jeffrey Fuller, President  
Lake Lenape Water  
83 Eagle Chase  
Woodbury, NY 11797

John Brunetti, President  
Midtown Water  
1655 US Highway 9  
Red Oak Lane  
Old Bridge, NJ 08857

Steven Lubertozzi  
VP & Treasurer  
Montague Water  
2335 Sanders Road  
Northbrook, Illinois 60062

Henry Schwarz, President  
Mt. Olive Villages Water  
200 Central Avenue  
Mountainside, NJ 07092

David Baker, President  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034

Bill Beattie  
Director Operations  
Borough of Park Ridge  
53 Park Avenue  
Park Ridge, NJ 07565

Dennis Doll  
Chairman  
Pinelands Water  
1500 Ronson Road  
Iselin, NJ 08830

Frank J. Moritz, Director  
Village of Ridgewood Water  
13 North Maple Avenue  
Ridgewood, NJ 07451

John Hosking, President  
Roxbury Water  
79 Sunset Strip  
Post Office Box 560  
Succasunna, NJ 07876

Roger Hall, President  
Roxiticus Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Roger Hall  
Vice President  
SB Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Daniel T. Stephano  
Acting Vice President  
Seaview Water  
102 South Manor Avenue  
Longport, NJ 08403

Samuel J. Faiello, President  
Shore Water  
105 23<sup>rd</sup> Avenue  
South Seaside Park, NJ 08752

Eric Olsen, President  
Shorelands Water  
1709 Union Avenue  
Hazlet, NJ 07730

David Simmons, President  
Simmons Water  
Post Office Box 900  
Branchville, NJ 07826

Dilip Patel, Superintendent  
Trenton Water Works  
Post Office Box 528  
Trenton, NJ 08604

Gary Prettyman  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640

Walton Hill  
United Water Toms River  
15 Adafre Avenue  
Toms River, NJ 08733

## **ATTACHMENT 4**



Chris Christie  
Governor

Kim Guadagno  
Lt. Governor

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

Kristi Izzo  
Secretary of the Board  
Tel. # (609) 292-1599

## **NOTICE<sup>1</sup>**

**IN THE MATTER OF THE BOARD'S REVIEW OF THE  
APPLICABILITY AND CALCULATION OF A CONSOLIDATED TAX ADJUSTMENT  
Generic Proceeding  
Docket No. EO12121072**

### **Notice of Opportunity to Provide Additional Information**

On January 23, 2013, the Board of Public Utilities ("Board") directed Board Staff to convene all interested parties to participate in a proceeding to review issues related to the consolidated tax saving adjustment ("CTA") to determine: 1) the continued use by the Board of the CTA policy; 2) how to calculate the amount of savings that result from filing a consolidated return; 3) how these savings should be equitably shared between the regulated company and the ratepayers; and 4) if a rulemaking proceeding should be undertaken to establish utility-wide or statewide standards with respect to the implementation of a CTA policy.

In furtherance of the review of CTA policy, Board Staff requested information via Notices of Opportunity to Comment dated March 6, 2013 and July 25, 2013. Additionally, a request for information was sent to interested parties on November 1, 2013. All non-confidential responses to these requests were posted on the Board's website. Following its review of all information submitted pursuant to these requests, Board Staff is requesting written comments on the following proposed modification of CTA policy **on or before Monday, August 18, 2014**:

Staff proposes that the current CTA policy remain in effect except as amended by the following:

1. The revised time period for the calculation of the savings would look back 5 years from the beginning of the test year;
2. The savings allocation method would allow 75% of the calculated savings to be retained by the company and 25% of the calculated savings to be allocated to the ratepayers; and

---

<sup>1</sup> Not a paid legal advertisement.

3. Transmission assets of the EDCs would not be included in the calculation of the CTA.

Please address responses to Kristi Izzo, Board Secretary and submit in electronic and hard copy format as follows:

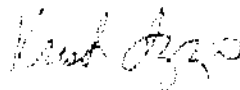
- The electronic copy shall be submitted in Microsoft WORD format, or in a format that can be easily converted to WORD, by e-mailing it to the following e-mail address: [rule.comments@bpu.state.nj.us](mailto:rule.comments@bpu.state.nj.us). Please put the following in the subject field of the e-mail: "CTA Generic Proceeding Additional Comments" followed by your company or association name.
- The paper copy shall be delivered to:

Kristi Izzo, Secretary of the Board  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350

Please be advised that any information claimed to be confidential should be filed in accordance with the Board's confidentiality rules at N.J.A.C. 14:1-12 et seq.

Once Board Staff has reviewed all responses, additional questions may be presented to individual respondents or to all interested parties.

This notice will be posted on the CTA Generic Proceeding page on the BPU website at <http://www.state.nj.us/bpu/about/divisions/energy/consolidatedtaxadjustment.html>. The responses requested above, all other documents submitted to the Board in the proceeding, and all subsequent notices will be posted on this page after they are submitted.



---

Kristi Izzo  
Secretary of the Board

Dated: June 18, 2014

**In the Matter of the Board's Review of the Applicability and Calculation of a  
Consolidated Tax Adjustment – Generic Proceeding**

**Docket No. EO12121072**

**SERVICE LIST**

Stefanie A. Brand, Esq., Director  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Ami Morita  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[amorita@rpa.state.nj.us](mailto:amorita@rpa.state.nj.us)

Diane Schulze  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[dschulze@rpa.state.nj.us](mailto:dschulze@rpa.state.nj.us)

Susan McClure  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[smcclure@rpa.state.nj.us](mailto:smcclure@rpa.state.nj.us)

Christine Juarez  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[cjuarez@rpa.state.nj.us](mailto:cjuarez@rpa.state.nj.us)

Lisa Gurkas  
Division of Rate Counsel  
140 East Front Street, 4<sup>th</sup> Floor  
Post Office Box 003  
Trenton, NJ 08625-0003  
[lgurkas@rpa.state.nj.us](mailto:lgurkas@rpa.state.nj.us)

Bill Beattie  
Director Operations  
Borough of Park Ridge  
53 Park Avenue  
Park Ridge, NJ 07565

Dennis Doll, Chairman  
Pinelands Water  
1500 Ronson Road  
Iselin, NJ 08830

Frank J. Moritz, Director  
Village of Ridgewood Water  
13 North Maple Avenue  
Ridgewood, NJ 07451

John Hosking, President  
Roxbury Water  
79 Sunset Strip  
Post Office Box 560  
Succasunna, NJ 07876

Roger Hall, President  
Roxiticus Water  
1920 Frontage Road  
Suite 110  
Cherry Hill, NJ 08034

Roger Hall  
Vice President  
SB Water  
1920 Frontage Road, Suite 110  
Cherry Hill, NJ 08034

Daniel T. Stephano  
Acting Vice President  
Seaview Water  
102 South Manor Avenue  
Longport, NJ 08403

Samuel J. Faiello, President  
Shore Water  
105 23<sup>rd</sup> Avenue  
South Seaside Park, NJ 08752

Andrea Crane, Vice President  
The Columbia Group, Inc.  
Post Office Box 810  
Georgetown, CT 06829  
[ctcolumbia@aol.com](mailto:ctcolumbia@aol.com)

Lou Walters  
Atlantic City Sewerage Company  
1200 Atlantic Avenue  
Suite 300  
Atlantic City, NJ 08404  
[lwalters@acsewerage.com](mailto:lwalters@acsewerage.com)

Mike Sgro  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[michael.sgro@amwater.com](mailto:michael.sgro@amwater.com)

Frank Simpson  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034  
[Frank.Simpson@amwater.com](mailto:Frank.Simpson@amwater.com)

Bill Davis  
Aqua New Jersey Water Company  
10 Black Forest Road  
Hamilton, NJ 08691  
[WBDavis@aquaaamerica.com](mailto:WBDavis@aquaaamerica.com)

Jim Cagle  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640-1716  
[Jim.cagle@unitedwater.com](mailto:Jim.cagle@unitedwater.com)

Eric Olsen  
Shorelands Water Company  
1709 Union Avenue  
Hazlet, NJ 07730  
[eolsen@shorelandswater.com](mailto:eolsen@shorelandswater.com)

Dave Ern, President  
Gordon's Corner Water Company  
27 Vanderberg Road  
Marlboro, NJ 07746  
[dgern@gordonscornerwater.com](mailto:dgern@gordonscornerwater.com)

Eric Olsen, President  
Shorelands Water  
1709 Union Avenue  
Hazlet, NJ 07730

David Simmons, President  
Simmons Water  
Post Office Box 900  
Branchville, NJ 07826

Dilip Patel, Superintendent  
Trenton Water Works  
Post Office Box 528  
Trenton, NJ 08604

Gary Prettyman  
United Water New Jersey  
200 Old Hook Road  
Harrington Park, NJ 07640

Walton Hill  
United Water Toms River  
15 Adafre Avenue  
Toms River, NJ 08733

Thomas Dillon, President  
Environmental Disposal  
601 Route 202  
Bedminster, NJ 07921

Jeffrey Goldstein, VP  
Oakwood Village Sewer  
308 Vreeland Road  
Florham Park, NJ 07932

Jim P. Roberts  
Regulatory Affairs  
CenturyLink  
240 North 3<sup>rd</sup> Street  
Suite 300  
Harrisburg, PA 17101  
[Jim.roberts@CentruryLink.com](mailto:Jim.roberts@CentruryLink.com)

Scott Sommerer, Director  
Regulatory Compliance & Strategy  
WVT Communications  
Post Office Box 592  
47 Main Street  
Warwick, NY 10990  
[s.sommerer@wvtc.com](mailto:s.sommerer@wvtc.com)

William Davis, President  
Aqua NJ  
10 Black Forest Road  
Hamilton, NJ 08691

David Watson  
Acting Superintendent  
Borough of Berlin Water  
59 South White Horse Pike  
Berlin, NJ 08009

John Walls, Supervisor  
City of Bordentown Water  
324 Farnsworth Avenue  
Bordentown, NJ 08504

Burt Lundbert, President  
Cedar Glen Lakes Water  
Michigan Avenue  
Whiting, NJ 08759

Robert Cutter  
Business Administrator  
Town of Clinton Water  
43 Leigh Street  
Post Office 5194  
Clinton, NJ 08809

Luis Acevedo  
Interim Superintendent  
Town of Dover Water  
100 Princeton Avenue  
Dover, NJ 07801

James Carroll, Manager  
Fayson Lakes Water  
160 Boonton Avenue  
Kinneelon, NJ 07405

Dorothy Gorman, Owner  
Forest Lakes Water  
45 Sleepy Hollow Road  
Post Office Box 264  
Andover, NJ 07821

Jeffrey Fuller, President  
Lake Lenape Water  
83 Eagle Chase  
Woodbury, NY 11797

Ira G. Megdal, Esq.  
Cozen O'Connor  
457 Haddonfield Road  
Suite 300  
Cherry Hill, NJ 08002  
[imegdal@cozen.com](mailto:imegdal@cozen.com)

John L. Carley, Esq.  
Assistant General Counsel  
Consolidated Edison of NY, Inc.  
Law Department, Room 1815-S  
4 Irving Place  
New York, NY 10003  
[CarleyJ@coned.com](mailto:CarleyJ@coned.com)

Tamara L. Linde, Esq.  
Vice President – Regulatory  
PSEG Services Corporation  
80 Park Place - TSG  
Newark, NJ 07102  
[tamara.linde@pseq.com](mailto:tamara.linde@pseq.com)

Mary Patricia Keefe, Esq.  
Vice President, Regulatory Affairs  
Elizabethtown Gas  
300 Conneil Drive, Suite 3000  
Berkeley Heights, NJ 07922  
[mkeefe@aglrresources.com](mailto:mkeefe@aglrresources.com)

Philip J. Passanante, Esq.  
Associate General Counsel  
ACE- 92DC42  
500 North Wakefield Drive  
Post Office Box 6066  
Newark, DE 19714-6066  
[Philip.Passanante@pepcoholdings.com](mailto:Philip.Passanante@pepcoholdings.com)

Wendy E. Stark, Esq.  
Deputy General Counsel  
Pepco Holdings, Inc. – EP1132  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[westark@pepcoholdings.com](mailto:westark@pepcoholdings.com)

Mindy L. Herman  
Director of Regulatory Services  
Pepco Holdings, Inc. – EP9020  
701 Ninth Street, NW  
Washington, DC 20068-0001  
[mherman@pepcoholdings.com](mailto:mherman@pepcoholdings.com)

John Brunetti, President  
Midtown Water  
1655 US Highway 9  
Red Oak Lane  
Old Bridge, NJ 08857

Steven Lubertozzi  
VP & Treasurer  
Montague Water  
2335 Sanders Road  
Northbrook, Illinois 60062

Henry Schwarz, President  
Mt. Olive Villages Water  
200 Central Avenue  
Mountainside, NJ 07092

Gregory Eisenstark, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960  
[geisenstark@morganlewis.com](mailto:geisenstark@morganlewis.com)

Tracey Thayer, Esq.  
New Jersey Natural Gas Company  
1415 Wyckoff Road  
Wall, NJ 07719  
[TThayer@NJNG.com](mailto:TThayer@NJNG.com)

Roger E. Pedersen  
Manager, NJ Regulatory Affairs  
External Issues and Compliance  
ACE- 63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330  
[roger.pedersen@pepcoholdings.com](mailto:roger.pedersen@pepcoholdings.com)

Michael J. Connolly, Esq.  
Morgan Lewis & Bockius LLP  
89 Headquarters Plaza North  
Suite 1419  
Morristown, NJ 07960  
[michael.connolly@morganlewis.com](mailto:michael.connolly@morganlewis.com)

David Baker, President  
New Jersey American Water Company  
131 Woodcrest Road  
Cherry Hill, NJ 08034

Kristi Izzo  
Secretary of the Board  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Kristi.izzo@bpu.state.nj.us](mailto:Kristi.izzo@bpu.state.nj.us)

Tricia Caliguire  
Chief Counsel  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Tricia.caliguire@bpu.state.nj.us](mailto:Tricia.caliguire@bpu.state.nj.us)

Maria Moran, Director  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Maria.moran@bpu.state.nj.us](mailto:Maria.moran@bpu.state.nj.us)

Jerry May, Director  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Jerome.may@bpu.state.nj.us](mailto:Jerome.may@bpu.state.nj.us)

Dennis Moran, Director  
Division of Audits  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Dennis.moran@bpu.state.nj.us](mailto:Dennis.moran@bpu.state.nj.us)

Eric Hartsfield, Director  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Eric.hartsfield@bpu.state.nj.us](mailto:Eric.hartsfield@bpu.state.nj.us)



Steven R. Cocchi, Esq.  
South Jersey Gas Company  
1 South Jersey Plaza  
Folsom, New Jersey 08037  
[scocchi@sjindustries.com](mailto:scocchi@sjindustries.com)

Martin Rothfelder, Esq.  
PSEG Services Corporation  
80 Park Place - TSG  
Newark, NJ 07102  
[Martin.Rothfelder@pseg.com](mailto:Martin.Rothfelder@pseg.com)

Kenneth T. Maloney  
Cullen and Dykman LLP  
1101 Fourteenth St., N.W.  
Suite 550  
Washington, DC 20005  
[kmaloney@cullenanddykman.com](mailto:kmaloney@cullenanddykman.com)

Babette Tenzer, DAG  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street  
Post Office Box 45029  
Newark, NJ 07101  
[babette.tenzer@dol.lps.state.nj.us](mailto:babette.tenzer@dol.lps.state.nj.us)

Jake Gertsman  
Legal Specialist  
Counsel's Office  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Jake.gertsman@bpu.state.nj.us](mailto:Jake.gertsman@bpu.state.nj.us)

Michael Kammer, Chief  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Michael.kammer@bpu.state.nj.us](mailto:Michael.kammer@bpu.state.nj.us)

Kenneth Welch  
Administrative Analyst  
Division of Water  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Kenneth.welch@bpu.state.nj.us](mailto:Kenneth.welch@bpu.state.nj.us)

Jackie Galka  
Division of Energy  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
[Jacqueline.galka@bpu.state.nj.us](mailto:Jacqueline.galka@bpu.state.nj.us)