



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

A Regular Board meeting of the Board of Public Utilities was held on May 20, 2020, via teleconference (301) 715 8592 - Webinar ID: 951 2883 1353 or Watch Online @ <https://www.youtube.com/watch?v=LDZ4vftMvDU> at 10:00 am.

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

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

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

Joseph L. Fiordaliso, President
Mary-Anna Holden, Commissioner
Dianne Solomon, Commissioner
Upendra J. Chivukula, Commissioner
Robert M. Gordon, Commissioner

President Fiordaliso presided at the meeting and Aida Camacho-Welch, Secretary of the Board, carried out the duties of the Secretary.

It was announced that the next regular Board Meeting would be held on June 10, 2020 at 10:00 a.m. via teleconference.

CONSENT AGENDA

I. AUDITS

A. Energy Agent, Private Aggregator and/or Energy Consultants Initial Registrations

EE20040295L GE20040296L	Royal Energy, Inc.	I – EA/PA
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EE20020148L GE20020149L	AEP Energy, Inc.	I – EA/PA/EC
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EE20020180L GE20020181L	Harris Energy Solutions, LLC	I – EA/EC
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Energy Agent Renewal Registrations

EE20020092L	Aegean Energy Advisors, LLC	R – EA
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EE20030200L	Save On Energy, LLC	R – EA
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EE20010074L	The Energy Link, LLC	R – EA
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BACKGROUND: The Board must register all energy agents, private aggregators, and consultants, and the Board must license all third party electric power suppliers and natural gas suppliers. N.J.S.A. 48:3-78 to -79. On May 10, 2019, P.L. 2019, c. 100-101 was signed into law providing that third party electric power and natural gas supplier licenses issued by the Board may be renewed without expiring if certain conditions are met. An electric power supplier and/or natural gas supplier license shall not expire so long as the licensee pays to the Board a license renewal fee accompanied by an annual information update on a form prescribed by the Board. The renewal fee and annual information update form must be submitted within 30 days prior to the anniversary date of the last approved licensing application. P.L. 2019, c. 100-101 became operative 60 days following the date of enactment. As such, any third party suppliers with a license expiring prior to July 9, 2019 were still required to submit the previous renewal application form. Any third party supplier renewal application that was filed prior to July 9, 2019 has been, and will continue to, be processed by Board Staff for approval or denial in accordance with N.J.A.C. 14:4-5.7. The anniversary date for companies with a pending application will be the date that the renewal application receives Board approval. An energy agent, private aggregator, or energy consultant registration shall be valid for one year from the date of issue. Annually thereafter, licensed electric power suppliers and natural gas suppliers, as well as energy agents, private aggregators, and energy consultants, are required to renew timely their licenses and registrations in order to continue to do business in New Jersey.

Staff recommended that the following applicants be issued initial registrations as an energy agent, private aggregator and/or energy consultant for one year:

- o Royal Energy Inc.
- o AEP Energy, Inc.
- o Harris Energy Solutions LLC

Staff also recommended that the following applicants be issued renewal registrations as an energy agent for one year:

- Aegean Energy Advisors, LLC
- Save On Energy, LLC
- The Energy Link, LLC

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

II. ENERGY

There were no items in this category.

III. CABLE TELEVISION

A. Docket No. CE19050672 – In the Matter of the Petition of Comcast of Burlington County, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the City of Burlington, County of Burlington, State o New Jersey.

BACKGROUND: On July 27, 2016, Comcast of Burlington County, LLC (Comcast) Comcast filed an application with the City of Burlington (City) for renewal of municipal consent. On April 9, 2019, the City adopted an ordinance granting renewal municipal consent to Comcast, and on April 17, 2019, Comcast formally accepted the terms and conditions of the ordinance. On May 30, 2019, Comcast filed with the Board for a renewal of its Certificate of Approval for the City. Staff recommended approval of the proposed Renewal Certificate of Approval. This Certificate shall expire on April 30, 2027.

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

IV. TELECOMMUNICATIONS

A. Docket No. TF20030257 – In the Matter of the Verified Petition of PEG Bandwidth NJ, LLC for Approval to Participate in Certain Financing Arrangements.

BACKGROUND: On March 18, 2020, PEG Bandwidth NJ, LLC (PEG NJ, Petitioner) filed a petition with the Board requesting approval to enter into or participate in financing arrangements of its corporate parent and affiliates.

PEG NJ is a Delaware limited liability company and an indirect subsidiary of Uniti Group Inc., a publicly traded Maryland real estate investment trust. PEG NJ's principal offices are located at 107 St. Francis Street, Suite 1800, Mobile, AL. In New Jersey, PEG NJ is authorized to provide facilities-based and resold telephone service with authority to provide local exchange service pursuant to authority granted by the Board in I/M/O Petition of PEG Bandwidth NJ, LLC for Approval to Provide Local Exchange and Interexchange Telecommunications Services throughout the State of New Jersey. PEG NJ is also authorized by the Federal Communications Board to provide interstate telecommunications services.

The Petitioner sought Board approval to be a guarantor of certain financing arrangements of its corporate parent and affiliates and to pledge its assets as security of those financing arrangements. Specifically, Uniti Group Inc.'s subsidiaries Uniti Group LP, Uniti Fiber Holdings Inc., and CSL Capital, LLC (together, the Issuers) have undertaken an offering of \$2.25 billion aggregate principal amount 7.875% senior secured notes due 2025 (the Financing Arrangements). The Financing Arrangements are to be guaranteed on a senior unsecured basis by Uniti Group Inc. and on a senior secured basis by each of Uniti Group Inc.'s subsidiaries, including the Petitioner. The Financing Arrangements are intended to mature in 2025. The interest rate for the Financing Arrangements is 7.875%. The Petitioner sought authority to participate as guarantor or co-guarantor of the Financing Arrangements and to pledge its assets as security of the Financing Arrangements. The Financing Arrangements were used to repay \$2.05 billion of outstanding debt, and may be used for other purposes such as acquisitions, working capital requirements (including the development and expansion of distributed network systems), and general corporate purposes of the Petitioner and its affiliates and subsidiaries.

Additionally, the Petitioner stated that the Financing Arrangements will serve the public interest, and were used to repay existing debt, and may otherwise be used to fund some or all of the purchase price from future acquisitions, to support strategic growth initiatives, to provide for ongoing working capital, and for other corporate purposes. The Financing Arrangements will also provide access to greater financial resources that will allow Uniti Group Inc. and its current and future subsidiaries, including PEG NJ, to become more effective competitors in the communications industry. The Financing Arrangements are necessary and appropriate, will not impair PEG NJ's ability to provide its services, and will promote its corporate purposes. The Financing Arrangements will be transparent to PEG NJ's customers and will not disrupt service or cause customer confusion or inconvenience.

The New Jersey Division of Rate Counsel reviewed this matter, and by letter dated April 28, 2020, stated that it had no objection to the Board's approval of this petition.

The Office of the Economist, after review of the information submitted in this proceeding, found that the action requested is in accordance with the law and in the public interest and recommended approval of this petition.

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

B. Docket No. TM20040286 – In the Matter of the Verified Joint Petition of Internap Connectivity, LLC debtor-in possession, and Internap Corporation, debtor-in-possession, for Approval of a Transaction that will Result in a Material Change to the Indirect Ownership and Ultimate Control of Internap Connectivity, LLC.

BACKGROUND: On April 3, 2020, Internap Connectivity, LLC, debtor-in-possession (Internap Connectivity), and its direct parent company Internap Corporation, debtor-in-possession (Internap) (collectively, the Petitioners) filed a petition (the Petition) with the Board for the approval for a reorganization transaction (the Transaction) that will result in an indirect change of control of Internap Connectivity.

The Petition arose from a bankruptcy petition filed with the United States Bankruptcy court for the Southern District of New York (Bankruptcy Court) pursuant to a bankruptcy plan (the Plan) that was cooperatively developed between the Internap Companies and their creditors.

On April 9, 2020, the Petitioners filed a letter with the Board as a supplement to the Petition with regards to a financing arrangement to be implemented upon the Petitioners' emergence from bankruptcy. Following closing of the transaction, the same services will continue to be offered in New Jersey at the same rates, terms, and conditions to customers.

By letter dated May 1, 2020, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments, stating that it did not oppose the approval of the Petitioners' requests in this matter.

After review, Staff did not find any reason to believe that there will be an adverse impact on rates, competition in New Jersey, the employees of the Petitioners, or on the provision of safe, adequate and proper service to New Jersey consumers. A positive benefit may be expected from the strengthening of the Petitioner's competitive posture in the telecommunications market. Therefore, Staff recommended that the Board approve the Petitioners' request.

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

V. WATER

There were no items in this category.

VI. RELIABILITY AND SECURITY

There were no items in this category.

VII. CUSTOMER ASSISTANCE

There were no items in this category.

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

A. Approval of Minutes for the April 6, 2020 Agenda Meeting; and

Approval of Minutes for the April 27, 2020 Special Board Meeting.

BACKGROUND: Staff presented the meeting minutes of April 6, 2020, and the April 27, 2020 special Board meeting minutes and recommended that they be accepted.

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

After appropriate motion, the consent agenda was approved.

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

AGENDA

1. AUDITS

William Foley, Bureau Chief, Division of Audits, presented these matters.

- A. Docket No. EO20040302 – In the Matter of the Alleged Failure of HomeAde, LLC d/b/a Zentility to Comply with Certain Provisions of N.J.S.A. 48:3-78 et seq., and the New Jersey Administrative Code, N.J.A.C. 14:4-1.1 et seq.

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

EE19070832L
GE19070833L

HomeAde, LLC
d/b/a Zentility

EAP/AEC

BACKGROUND AND DISCUSSION: This matter involved potential violations under the Energy Discount and Energy Competition Act (the Act), and N.J.A.C. 14:4-1.1 et seq. (the Regulations) by HomeAde, LLC d/b/a Zentility (HomeAde, Company), that had been operating as an energy agent to provide services to residential, commercial, and industrial customers in New Jersey.

As a result of correspondence and telephone conversations between Staff and HomeAde, HomeAde submitted an Offer of Settlement (Offer) regarding its alleged violations. The Company made a monetary offer in the amount of \$700.00 in order to resolve all issues concerning the violations. Staff recommended that the Board issue an order accepting the Offer as it represents a reasonable settlement of potential violations with the following conditions:

- 1) HomeAde will pay to the State of New Jersey the sum of \$700.00 in full and final settlement of any and all potential violations under the Act and/or the Regulations, which have been or could have been alleged by the Board or the Staff against HomeAde, up to and including April 1, 2020.
- 2) The Offer of Settlement shall not relieve HomeAde or its parents, affiliates, subsidiaries or successors, from any violations, if any, of the Act, the Regulations, or Board Orders that may occur after April 1, 2020.
- 3) Any future repeated violation(s) of the Act, the Regulations, or Board Orders by HomeAde or its parent, affiliates, subsidiaries, or successors that may now or in the future provide energy services that is the subject of this Offer of Settlement, shall be deemed to be a second, third, or subsequent violation, as appropriate, pursuant to provisions of N.J.S.A. 48:3-83.
- 4) HomeAde will comply with all provisions of the Act and Regulations regarding Registrant renewal requirements as set forth at N.J.S.A. 48:3-78 and N.J.A.C. 14:4-1.1 et seq.
- 5) The execution of this Offer of Settlement shall not be relied upon by HomeAde or its affiliates, subsidiaries or successors in any attempt to mitigate any future claim that any such entity has violated the terms and conditions of the Act, the Regulations, or any Board Order.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

In addition, Staff recommended that the Board approve the initial application filed by HomeAde.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. EO20040322 – In the Matter of the Alleged Failure of Make the Switch USA, LLC to Comply with Certain Provisions of N.J.S.A. 48:3-78 et seq., and the New Jersey Administrative Code, N.J.A.C. 14:4-1.1 et seq.

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

EE17121256L	Make the Switch USA, LLC	E/A/E/C
GE17121257L		

BACKGROUND AND DISCUSSION: This matter involved potential violations under the Electric Discount and Energy Competition Act (the Act), and N.J.A.C. 14:4-1.1 et seq. (the Regulations) by Make the Switch USA, LLC (MTSU), who had been operating as an energy agent and energy consultant to provide services to commercial and industrial customers in New Jersey.

As a result of correspondence and telephone conversations between Staff and MTSU, MTSU submitted an Offer of Settlement (Offer) regarding its alleged violations. MTSU made a monetary offer in the amount of \$1,200.00 to resolve all issues concerning the violations. Staff recommended that the Board issue an order accepting the Offer as it represents a reasonable settlement of potential violations with the following conditions:

- 1) MTSU will pay to the State of New Jersey the sum of \$1,200.00 in full and final settlement of any and all potential violations under the Act and/or the Regulations, which have been or could have been alleged by the Board or the Staff against MTSU, up to and including April 22, 2020.
- 2) The Offer of Settlement shall not relieve MTSU or its parents, affiliates, subsidiaries or successors, from any violations, if any, of the Act, the Regulations, or Board Orders that may occur after April 22, 2020.

- 3) Any future repeated violation(s) of the Act, the Regulations, or Board Orders by MTSU or its parent, affiliates, subsidiaries, or successors that may now or in the future provide energy services that is the subject of this Offer of Settlement, shall be deemed to be a second, third, or subsequent violation, as appropriate, pursuant to provisions of N.J.S.A. 48:3-83.
- 4) MTSU will comply with all provisions of the Act and Regulations regarding Registrant renewal requirements as set forth at N.J.S.A. 48:3-78 and N.J.A.C. 14:4-1.1 et seq.
- 5) The execution of this Offer of Settlement shall not be relied upon by MTSU or its affiliates, subsidiaries or successors in any attempt to mitigate any future claim that any such entity has violated the terms and conditions of the Act, the Regulations, or any Board Order.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

In addition, Staff recommended that the Board approve the initial registration application file by MTSU.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

2. ENERGY

Stacy Peterson, Director, Division of Energy, presented these matters.

A. Docket No. ER19101429 – In the Matter of the Verified Petition of Atlantic City Electric Company Concerning the Setting of the Administrative Fee and the Regional Greenhouse Gas Initiative Recovery Charge (Rider RGGI) for 2020 Associated with its Solar Renewable Energy Certificate (SREC II) Program.

BACKGROUND AND DISCUSSION: On October 31, 2019, Atlantic City Electric Company (ACE or Company) filed a petition with the Board seeking authority to maintain its Administrative Fee and Rider Regional Greenhouse Gas Initiative Recovery Charge (Rider RGGI) associated with the Company’s Solar Renewable Energy Certificate (SREC) II Program (SREC II Program) for calendar year 2020 (October 2019 SREC II Petition).

The Company's SREC II Program was approved by a Board Order dated December 18, 2013, in which the Administrative Fee for SREC II Program participants was set at \$17.07 per SREC. According to ACE, using the cost recovery provisions from the December 2013 Order, the Company would have to increase the Administrative Fee from \$17.07 to \$118.45 per SREC, which may cause participants to withdraw from the SREC II Program. In the October 2019 SREC II Petition, ACE proposed a modification to the cost recovery mechanism. ACE requested authorization to carry forward unrecovered administrative fee balances for recovery in future annual periods and maintain the fee at \$17.07 and proposed to maintain the Rider RGGI rate for the recovery of SREC II Program costs at \$0.000000 per kWh.

By Order dated December 20, 2019, the Board approved the continuation of the Administrative Fee at the previously approved rate of \$17.07 per SREC for calendar year 2020 and noted that the Parties would continue to review all other issues related to the October 2019 SREC II Petition.

ACE made updates to its exhibits to reflect actual data through December 31, 2019. Based on these updates, using the cost recovery provisions from the December 2013 Order, the Administrative Fee calculated by the Company decreased from \$118.45 to 116.41.

On April 13, 2020, the Company, Board Staff and the New Jersey Division of Rate Counsel (collectively, Parties) executed a stipulation of settlement (Stipulation) recommending that the Board's previously approved SREC II Administrative Fee of \$17.07 per SREC be maintained for the remainder of calendar year 2020 and that the Rider RGGI charge applicable to the SREC II Program's direct charges be maintained at its current rate of \$0.000000 per kWh.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties. Staff also recommended that the Board direct ACE to file tariffs consistent with the Board's Order by June 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. ER20010105 – In the Matter of the Application of the Borough of Butler for an Order Approving a Levelized Energy Adjustment Clause (L.E.A.C.) for April 1, 2020 to June 30, 2020.

BACKGROUND AND DISCUSSION: On February 1, 2020, the Borough of Butler Electric Utility (Butler Electric) filed a petition with the Board for approval of a Levelized Energy Adjustment Clause (LEAC) for the period April 1, 2020 to June 30, 2020 (Petition). Specifically, Butler Electric requested approval to: 1) adjust the LEAC rate from \$0.087989 per kilowatt hour (kWh) to \$0.064945 per kWh to be effective for services

rendered on and after April 1, 2020; 2) continue the cap level of \$0.151718 per kWh on the quarterly LEAC adjustment that was approved on September 17, 2010 by the State of New Jersey, Department of Community Affairs, Division of Local Government Services, and the Local Finance Board pursuant to N.J.S.A. 40A:5A-25; and 3) continue to implement the LEAC quarterly adjustment rate mechanism as authorized by Board Order dated April 23, 1987, in Docket No. ER86040390.

Following discovery, Butler Electric, the New Jersey Division of Rate Counsel, and Board Staff (collectively, Parties) executed a stipulation of settlement (Stipulation). The Stipulation allows Butler Electric to implement a LEAC rate of \$0.064945 per kWh for usage effective after April 1, 2020, and continue the cap level at \$0.151718 per kWh.

Staff recommended that the Board approve the Stipulation of the Parties. Staff also recommended that the Board direct Butler Electric to file tariff sheets consistent with the terms and conditions of the Order by June 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

C. Docket No. ER20010089 – In the Matter of the Verified Petition of Jersey Central Power and Light Company Constituting its Annual Filing With Respect to the Storm Recovery Charge Rider of its Filed Tariff (Final 2019 SRC Filing).

BACKGROUND AND DISCUSSION: On January 31, 2020, Jersey Central Power & Light Company (JCP&L or Company) filed a petition with the Board requesting review and approval of the amounts included in the Company's Storm Recovery Charge (SRC) Rider deferred balance (January 2020 Petition). The purpose of the petition was to provide an opportunity for review of the deferred balance relating to the recovery of Board approved 2012 major storm deferred operations and maintenance costs.

As of December 31, 2019, JCP&L's unamortized SRC deferred balance, including interest was zero. In compliance with the Company's 2019 SRC filing, JCP&L zeroed out the SRC Rider rate as of December 1, 2019. However, JCP&L over-recovered \$3,947,992.00, including carrying costs of \$302,742.00. As agreed to in the 2019 SRC filing, the Company agreed to apply any net ending over/under-recovered balance in the SRC Rider's deferred balance to the largest under-recovered component of the Societal Benefits Charge Rider deferred balance, which is the Remediation Adjustment Clause (RAC) Rider. The over-recovered balance was applied to the RAC by December 31, 2019. With this being the final true-up of the Rider SRC deferred balance, JCP&L also proposed to eliminate the SRC Rider from its tariff.

Following the review of the January 2020 Petition, JCP&L, the New Jersey Division of Rate Counsel and Board Staff executed a stipulation of settlement (Stipulation) resolving all of the issues related to this petition.

Staff recommended that the Board approve the Stipulation of the Parties. Staff also recommended that the Board direct JCP&L to file tariffs consistent with its Order by June 1, 2020.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

D. Docket No. EW19121537 – In the Matter of the Petition of Good Energy, L.P.: Request for Waiver Related to Government Energy Aggregation Submittals for the Township of Gloucester.

BACKGROUND AND DISCUSSION: On December 20, 2019, Good Energy L.P. (Good Energy) filed a petition with the Board seeking a waiver from compliance with N.J.A.C. 14:4-6.4 and 6.6 as applied to the Government Energy Aggregation (GEA) program for which it serves as the energy agent on behalf of the Township of Gloucester (GEA Program) (Petition). The Educational Services Commission of New Jersey (ESCNJ), formerly named the Middlesex Regional Educational Services Commission, partnered with Good Energy to provide GEA services for the GEA Program. The regulations require the submission, for review by the Board Staff and the New Jersey Division of Rate Counsel (Rate Counsel) of draft bidding documents and draft public opt-out notices to customers. The regulations also require the submission of the authorizing resolution or ordinance and the final opt-out notices and executed supplier contracts.

The GEA Program was initiated in 2016. The GEA Program was extended in 2017 and renewed in 2019 without Good Energy submitting the draft bidding documents or the draft public opt-out notice to Staff or Rate Counsel for review. In addition, Good Energy failed to submit the required final GEA documents. Good Energy asserted in the petition that it understood that the Board's regulations applied to the initial implementation of GEA programs, but did not believe the Board's regulations applied to the submittal of documents for any extensions of contracts, subsequent bids, selections of suppliers, customer notifications, or final contracts.

The Good Energy's petition included final versions of the bidding documents, the opt-out notices, and the executed contract related to the selection of the new supplier for the GEA Program. In addition, the Good Energy's petition included the 2017 extension contract and the related final opt-out notice.

Staff recommended that the Board accept Good Energy's submission of its draft and final GEA documents for the GEA Program despite Good Energy's failure to do so in accordance with the timeframes set forth in the regulatory scheme. Staff also recommended that the Board waive N.J.A.C. 14:4-6.4(j) and N.J.A.C. 14:4-6.6 (a), (i), (l), (n), (s), and (t) for this case.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

E. Docket No. EW19121538 – In the Matter of the Petition of Good Energy, L.P.: Request for Waiver Related to Government Energy Aggregation Submittals for the Borough of Somerdale.

BACKGROUND AND DISCUSSION: On December 20, 2019, Good Energy, L.P. (Good Energy) filed a petition with the Board seeking a waiver from compliance with N.J.A.C. 14:4-6.4 and 6.6 as applied to the Government Energy Aggregation (GEA) program for which it serves as the energy agent on behalf of the Borough of Somerdale (GEA Program) (Petition). The Educational Services Commission of New Jersey, formerly named the Middlesex Regional Educational Services Commission, partnered with Good Energy to provide GEA services for the GEA Program. The regulations require the submission, for review by the Board Staff and the New Jersey Division of Rate Counsel (Rate Counsel) of draft bidding documents and draft public opt-out notices to customers. The regulations also require the submission of the authorizing resolution or ordinance and the final opt-out notices and executed supplier contracts.

The GEA Program was initiated in 2016. The GEA Program was extended in 2017 and renewed in 2019 without Good Energy submitting the draft bidding documents or the draft public opt-out notice to Staff or Rate Counsel for review. In addition, Good Energy failed to submit the required final GEA documents. Good Energy asserted in the Petition that it understood that the Board's regulations applied to the initial implementation of GEA programs, but did not believe the Board's regulations applied to the submittal of documents for any extensions of contracts, subsequent bids, selections of suppliers, customer notifications, or final contracts.

The Good Energy's petition included final versions of the bidding documents, the opt-out notices, and the executed contract related to the selection of the new supplier for the GEA Program. In addition, the Good Energy's petition included the 2017 extension contract and the related final opt-out notice.

Staff recommended that the Board accept, as within time, Good Energy's submission of its draft and final GEA documents for the GEA Program despite Good Energy's failure to do so in accordance with the timeframes set forth in the regulatory scheme. Staff also recommended that the Board waive N.J.A.C. 14:4-6.4(j) and N.J.A.C. 14:4-6.6 (a), (i), (l), (n), (s), and (t) for this case.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

F. Non Docketed Matter – In the Matter of Management Consulting: Oversight of the Board of Public Utilities Basic Generation Service Auction Process.

BACKGROUND AND DISCUSSION: On October 31, 2016, the Board directed that a Request for Proposal (RFP) be initiated through the Department of Treasury to hire a consultant to perform oversight of the Basic Generation Service (BGS) auction process. At its April 21, 2017 public agenda meeting, the Board authorized Staff to issue an RFP on behalf of the Board to hire a consultant to perform oversight of the BGS auction process. The RFP was created by Staff and released to the public for bid. An evaluation committee was formed consisting of staff from the Division of Energy, Fiscal Office, Counsels Office, and the Office of the Chief of Staff. After scoring, the Evaluation Committee determined that Bates White, LLC (Bates White) should be awarded the RFP contract, which the Board approved.

The contract was for a three year period beginning with the 2018 BGS process (which commenced on July 1, 2017) and will expire on June 30, 2020, or upon Board acceptance of Bates White’s Final Report in conjunction with the 2020 BGS procurement process. The contract between the Board and Bates White provides that the contract may be extended for all or part of three one-year periods, by mutual written consent of Bates White as the contractor, and the Board. Under this provision, the Board if it so chooses may request that Staff entered into negotiations with Bates White to extend the contact for up to three one-year periods, one year at a time.

Based on its continued satisfaction with Bates White’s performance, Staff recommended that the Board authorize Staff to extend the contract for the first one year term in order to complete the 2021 BGS procurement process.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

Cynthia L. M. Holland, Esq., Director, Office of Federal and Regional Policy, presented these matters.

G. Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket Nos. ER09-1256 and ER12-2708 Potomac-Appalachian Transmission Highline (PATH).

BACKGROUND AND DISCUSSION: This matter involved Staff, on behalf of the Board, filing an Initial Brief in the above captioned docket at the Federal Energy Regulatory Commission (FERC) on May 1, 2020. This case involved the return on equity (ROE) for the abandoned Potomac-Appalachian Transmission Highline (PATH) project. The Board intervened in this docket on October 25, 2012, shortly after PATH filed for abandonment costs at FERC. The ROE and methodologies proposed in the brief reflect current Board policy on transmission ROEs. The proposed ROE, 8.00-8.11%, is also consistent with Board positions in other transmission ROE cases. Staff recommended ratification of Staff's action to join this Brief on behalf of the Board.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

H. Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket No. AD20-14 Carbon Pricing in FERC-Jurisdictional Organized Regional Wholesale Electric Energy Markets.

BACKGROUND AND DISCUSSION: This matter involved Staff on behalf of the Board recommending that the Board file Comments with the Federal Energy Regulatory Commission, in the above captioned docket regarding a Carbon Pricing Technical Conference or Workshop. The proposed Technical Conference shall discuss possibilities for the implementation of carbon pricing at the state, regional, and federal level with interested parties. Federal carbon pricing policy will aid in achieving state policy goals. It is also consistent with the goals in the Energy Master plan.

Staff recommended that the Board intervene in this proceeding, and jointly with the Department of Environmental Protection, submit comments at FERC that support the petition and indicate a willingness to participate in the technical conference, if it is scheduled.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

I. Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket No. EL20-42 New England Ratepayers Association re: Petition for Declaratory Order.

BACKGROUND AND DISCUSSION: This matter involved Staff, on behalf of the Board, intervening in the above captioned docket at the Federal Energy Regulatory Commission (FERC or Commission) on April 30, 2020. This docket was initiated by a petition for a Declaratory Order filed by the New England Ratepayers Association (NERA) at FERC. In the petition, NERA requested that the Commission (1) declare that the Commission possesses exclusive jurisdiction over net metering arrangements because the arrangements are sales for resale under the Federal Power Act (FPA), and (2) order that the rates for such sales be priced in accordance with the Public Utility Regulatory Policies Act of 1978 or the FPA. This matter is of significance to New Jersey because the requested relief could undermine the state’s ability to establish, regulate, and administer net metering programs. On April 30, Staff filed joint Comments in support of a Motion for an Extension of Time filed by National Association of Regulatory Utility Commissioners.

Staff recommended that the Board ratify the intervention and Comments in support of the motion for extension at this time.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

J. Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket No. EL16-49 Calpine Corporation, et al. v. PJM Interconnection, LLC; and

Docket No. ER20010003 – In the Matter of Federal Energy Items for 2020 – FERC Docket Nos. ER18-1314 and EL18-178 PJM Interconnection, LLC re: 206 Proceeding to Determine Just and Reasonable Replacement Rate.

BACKGROUND AND DISCUSSION: This matter involved, Staff, on behalf of the Board, filing comments in response to PJM’s compliance filing to the December 19, 2019 Order issued by the Federal Energy Regulatory Commission. In the Order, the Commission substantially expands PJM’s Minimum Offer Price Rule (MOPR), to cover all state-sponsored resources in PJM’s capacity market. This MOPR expansion raises capacity prices and potentially excludes preferred resources from the market.

The Order directly effects those resources most needed for achievement of the Energy Master Plan – new clean energy resources. As required by the December 19 Order, PJM submitted its compliance filing on March 18, 2020. Board staff, along with many other state commissions, identified numerous problems with that filing. Board staff expects to file comments to PJM’s compliance filing, both with the Organization of PJM States, Inc. and independently. In comments prepared for the Board, Staff had identified that the auction timeline proposed by PJM is unworkable. Staff also supported a definition of subsidy that excludes Basic Generation Service and Order 1000 projects. Finally, Staff supported a later correction PJM made to the compliance filing that clarifies the floor price calculation for Hope Creek. Staff recommended ratification of the protest and comments.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

Lawanda R. Gilbert, Esq., Director, Office of Cable Television & Telecommunications, presented these matters.

A. Docket No. TW20040310 – In the Matter of Request For Waiver of Call Center Rule N.J.A.C. 14:3-5.2(A)(1) by AT&T Corp During Covid-19 Public Health Emergency.

BACKGROUND AND DISCUSSION: On April 21, 2020, AT&T Corp. (AT&T or the Company) filed a petition with the Board seeking a waiver of certain of its call center operating rules as they apply to AT&T nunc pro tunc to March 23, 2020, consistent with the Governor’s Executive Order 103. N.J.A.C. 14:3-5.2 (a)(1), requiring that every public utility is required to make itself available to customers by maintaining “[a] toll free emergency telephone number at which a customer service representative can be reached quickly at any time of day or night, seven days per week.”

AT&T currently serves its residential customers in New Jersey (Local and Long Distance) with two call center locations: 1) Sacramento, California; and 2) Manilla, in the Philippines. As a consequence of the COVID-19 pandemic, and in order to protect the health, safety and welfare of its workers, AT&T states that it was compelled to adjust the call center hours at both locations.

As a result of the changes, the two call centers are now operational from 8:00 am EDT until 8:00 pm EDT on weekdays, and from 9:00 am EDT until 6:00 pm EDT on Saturday and Sunday. The Company is advising customers who call these centers outside of the current working hours of the temporary change to the hours when customers can reach a live agent to report a service issue.

According to the Company, the emergency relief requested will be of a temporary nature, as AT&T intends to return to full 24 by 7 coverage when it is safe, reasonable and practical to do so consistent with the national and state emergencies, with full consideration given to the health, safety and welfare of its employees.

On May 7, 2020, the New Jersey Division of Rate Counsel filed comments indicating they had no objection to the approval of the Petition.

Staff recommended Board approval of AT&T's petition seeking a temporary waiver of the rules, with the provision that AT&T provide notice to the Board within 24 hours of any changes in its current policy, including its return to its former customer service hours.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. TW20050342 – In the Matter of Petition of Verizon New Jersey Inc. for Waiver of N.J.A.C. § 14:3-5.2 for the Period of the COVID-19 Public Health Emergency.

BACKGROUND AND DISCUSSION: On May 5, 2020, Verizon New Jersey Inc. (Verizon or the Company) filed a petition with the Board seeking a temporary waiver of N.J.A.C. 14:3-5.2(a)(1) of the New Jersey Administrative Code (Code) predicated upon the issuance of the Executive Order No. 103. Section 14:35.2(a)(1) of the Code requires that all utilities “make itself accessible to customers and Board staff by maintaining the following: (1) [a] toll free emergency telephone number at which a customer service representative can be reached quickly at any time of day or night, seven days per week.”

According to the Company, due to the extraordinary circumstances posed by the Covid-19 pandemic and the need to reorganize its customer service delivery to protect its employees and the public, and in response to guidance from the U.S. Centers for Disease Control and Prevention, the World Health Organization and state and local authorities, including the State of New Jersey, Verizon implemented changes to its hours of operation for its call centers on March 19, 2020.

Tech support operations previously offered 24 hours, seven days a week were reduced to Monday - Saturday from 8:00 am - 7:00 pm, and Sunday from 8:00 am - 5:00 pm. While still not operating 24 hours, on May 3, 2020, the tech support hours were extended to Sunday - Saturday from 8:00 am - 7:00 pm.

On May 7, 2020, the New Jersey Division of Rate Counsel filed comments indicating they had no objection to the Petition.

Staff recommended Board approval of Verizon's petition, along with the same requirement that the Board receive notification within 24 hours of any changes in the policies with respect to this matter.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

C. Docket No. TO20040314 – In the Matter of Implementation of Executive Order 126 Prohibiting Cable and Telecommunications Providers from Terminating Internet and Voice Service.

BACKGROUND AND DISCUSSION: On April 13, 2020, Governor Philip D. Murphy issued Executive Order 126 (EO 126) in response to the global public health crisis. EO 126 serves to prohibit the disconnection of voice and internet services for residential customers for nonpayment during the declaration of the Public Health Emergency and State of Emergency due to the COVID-19 Pandemic (Pandemic). These actions were taken in recognition of the need to maintain consistent access to voice and internet services throughout the Pandemic. Services such as these are necessary and essential to support New Jersey residents.

EO126 also allows for the reduction of internet speed due to nonpayment to mitigate the effect of accumulated balances for residential consumers. Accordingly, EO 126 states, “a cable or telecommunications provider that provides residential internet and voice services to New Jersey residents may downgrade or otherwise reduce the quality of residential internet or voice services provided due to nonpayment only if acting pursuant to a policy approved in writing by the Board of Public Utilities as long as this Order remains in effect.”

To address implementation of the above referenced provision, Board Staff issued queries to the State's incumbent Cable TV and telecommunications providers, requesting that those seeking to implement policies for the downgrade or reduction of quality of residential or voice services as described in EO 126, should submit such plans for Board review no later than April 21, 2020.

Thereafter correspondence was received from two carriers, Comcast and Altice, U.S.A. (Altice) While Altice submitted a summary of its current operations, including an option for customers to voluntarily downgrade services, Comcast was the only provider to submit a mandatory downgrading of internet services plan.

Comcast established its "Xfinity Assistance Plan", which it automatically transfers delinquent customers into resulting in a reduction in their Internet service speed to 25/3 Mbps, along with continuation of their existing voice services, at a reduced price of \$14.95/month. Comcast claimed the plan allows customers who otherwise would have had their services suspended for nonpayment to continue receiving broadband Internet and current voice services without accruing large outstanding balances. Comcast maintains the reduced Internet speed of 25/3 Mbps is sufficient for households to obtain access to services that enable residents to engage in work at home activities, distance learning, video conferencing and other streaming services, news and information, and email.

Altice filed a letter with the Board confirming its compliance with EO 126 and describing various measures implemented by the Company in response to the COVID-19 Pandemic. While Altice will not disconnect customers due to non-payment, Altice will offer customers the option of choosing to take a downgraded 30 Mbps internet service at a reduced cost of \$14.99/month, "as a way to assist customers in managing the bill that will be owed for services received at the end of the period". Unlike Comcast, customers may also choose to retain their current level of service, consistent with the terms and conditions of the specific service package.

On May 7, 2020, the New Jersey Division of Rate Counsel (Rate Counsel) filed comments on both plans, indicating that they had no objection if the Board determines after its review that the policies outlined by the Companies are in compliance with EO 126. The Rate Counsel expressed concerns on the effect of the plans in the following areas: 1) impact of the proposed slower service speed on service; 2) treatment of data allowances or data caps; and 3) policies regarding small business customers experiencing economic hardship due to the COVID-19 Pandemic. While Rate Counsel received information from Comcast regarding these issues, and Rate Counsel recommended that similar information should be provided by Altice.

Staff recommended the Board find that the policies outlined are within compliance with EO 126. In addition, Staff recommended that Altice provide additional information as noted by Rate Counsel.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

5. **WATER**

A. Docket WE20020117 – In the Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of a Municipal Consent Granted by the Township of Long Hill, County of Morris.

Michael Kammer, Director, Division of Water, presented this matter.

BACKGROUND AND DISCUSSION: On February 6, 2020, New Jersey-American Water Company Inc. (NJAWC, Company or Petitioner) filed a petition with the Board seeking approval of the following: (1) a municipal consent, Ordinance No. 450-20 (Ordinance), adopted January 22, 2020 by the Township of Long Hill (Township) to allow the Petitioner to provide wastewater service to the customers in the Township of Long Hill, County of Morris (Proposed Franchise Area); and (2) the expansion of NJWAC service territory to include customers in the Proposed Franchise Area.

NJAWC is a regulated public utility corporation engaged in the production, treatment, and distribution of water and the collection and treatment of sewage within its defined service territory, which includes portions of the following counties: Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren. The Wastewater System serves 2,800 customers, most of whom already receive water service from NJAWC.

The Petitioner stated that the Agreement will promote the public interest and result in the following positive benefits:

1. NJAWC's size and scale enable the Company to address the wastewater needs of the Township customers well into the future.
2. The customers of the Township will benefit from becoming a part of NJAWC, a substantially larger utility regulated by the Board. These customers will receive the benefits of industry standard best practices in the areas of planning, research, environmental compliance, customer service, finance, risk management, operations, service delivery, and management.
3. After the approval of the Agreement, the Township customers will have access to NJAWC's customer service call center to resolve any customer service issues that may arise.

By letter dated April 28, 2020, the New Jersey Division of Rate Counsel (Rate Counsel) submitted its comments to the petition and stated that, subject to certain conditions, it was not opposed to the request for approval of the municipal consent. The Rate Counsel recommended that the Board modify the term of the municipal consent to 50 years for the specific authorization to provide sewer service within the Township. The Rate Counsel also recommended that the Board condition its approval of the petition to specify that transaction costs cannot be recovered in rates; namely, that there be no authorization to include any specific assets or amounts in rate base, or authorization for any other ratemaking treatment.

On May 1, 2020, the Company filed a response to the Rate Counsel's comments, asserting that there is no legal bar to the granting of a municipal consent with an unlimited duration for the provision of wastewater services. The Company further stated that such grant is reasonable and prudent for the provision of such services. NJAWC added that it believes that it had demonstrated that approval of the municipal consent will serve the public convenience and properly service the public interest. NJAWC indicated that will address any other issues raised in an appropriate subsequent proceeding before the Board.

Staff recommended that the Board approve the municipal consent granted by the Long Hill Township and the expansion of New Jersey American service territory to include wastewater service in the Township.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

6. RELIABILITY AND SECURITY

There were no items in this category.

7. CUSTOMER ASSISTANCE

Julie Ford-Williams, Director, Division of Customer Assistance, presented this matter

A. Docket Nos. BPU EC19090999U and OAL PUC 15018-19 – In the Matter of Callaremi Cadillac Buick GMC, Petitioner v Jersey Central Power and Light Company, Respondent – Billing Dispute.

BACKGROUND AND DISCUSSION: This matter involved a billing dispute between Callaremi Cadillac Buick GMC (Petitioner) and Jersey Central Power & Light Company (JCP&L or Company). The petition was transmitted to the Office of Administrative Law for a hearing as a contested case. Administrative Law Judge (ALJ) Barry E. Moscovitz filed an Initial Decision in this matter with the Board on March 5, 2020. At the March 27, 2020, Board meeting, Staff recommended and was granted a 45-day extension of time for issuing a final decision. No exceptions to the Initial Decision have been received by the Board.

On January 3, 2020, the Petitioner filed a motion for summary decision. On January 31, 2020, JCP&L filed its opposition and cross-motion for summary decision.

ALJ Moscovitz in his Initial Decision, concluded that JCP&L may adjust the charges due to the Company's failure to apply the appropriate meter constant for the six-year period

referenced in the tariff. Since the Petitioner did not dispute the amount of the billing adjustment of \$38,256.70, for the six-year time-period of March 26, 2013, through March 13, 2019, ALJ Moscowitz concluded, that the Petitioner owes this amount. ALJ Moscowitz also concluded that nothing precludes the parties as a matter of law from entering into a deferred payment plan.

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

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

8. CLEAN ENERGY

A. Docket No. QO18121289 – In the Matter of the Board of Public Utilities Offshore Wind Solicitation for 1,100 MW – Evaluation of the Offshore Wind Applications.

James Ferris, Bureau Chief of New Technology, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This matter addresses the process related to changes in key employees for the Ocean Wind 1,100 MW project awarded by the Board on June 12, 2019.

N.J.A.C. 14:8-6.5(a)1(vi) mandates that Ocean Wind not replace key employees it used to obtain the Offshore Wind Renewable Energy Certificate (OREC or Ocean Wind) without prior approval of the Board. The rule further requires that Ocean Wind “commit to: notifying the Board, within 30 days, of the departure of any key employee” and submit “the expertise and qualifications for any new key employee for approval by the Board” for the lifetime of the Project.

The rules also state that the applicant is not permitted to replace key employees it used to obtain the OREC without prior approval of the Board. For the duration of the Project, the Board must receive notification of the departure of any key employee and be provided with the expertise and qualifications for any new key employee, also subject to Board approval.

The Board recognizes the importance of having qualified and experienced key employees at Ocean Wind. While “the depth of knowledge base among Ocean Wind’s key personnel” was an attributing factor in the Board’s selection of the Project, retention and the replacement of personnel are anticipated and addressed in the rules. The Project was awarded ORECs through 2045 and with a project of this magnitude, spanning over several decades, key employees will inevitably change. The Board appreciates that Ocean Wind has the ability to manage its key personnel and to make changes.

Accordingly, implementation and timing concerns respecting the processes surrounding Board approval and lead times that could delay securing key personnel in a timely manner are at issue.

As such, Staff proposed that the Board delegate to Staff limited authority with respect to determinations concerning replacements or modifications proposed regarding Ocean Wind's key employees. Board Staff is closely involved with the Ocean Wind Project and routinely coordinates with Ocean Wind's key employees. As a result, Board Staff is appropriately positioned to make informed decisions as it pertains to Ocean Wind's key employees. Staff review of key personnel changes by Ocean Wind prior to implementation provides for an expeditious process and limits the possibility of delays. Board Staff ultimately seeks to ensure Ocean Wind has the flexibility to make swift business decisions regarding its employees. In providing approval, Board Staff did not intend to limit or become deeply involved in Ocean Wind's hiring decisions, but rather to confirm that the Project's key employees conform to the Board's rules at N.J.A.C.14:8-6.5 (a)1(i) and (ii). The ability for Board Staff to approve key employee changes does not materially diminish any aspect of the Project.

Therefore, Staff recommended that the Board authorize Staff to exercise limited delegated authority with respect to N.J.A.C. 14:8-6.5(a)1(v) and (vi) for the Project. Staff also recommended that the Board direct Ocean Wind to notify Board Staff within thirty days of the departure of any key employee, to submit the expertise and qualifications for any new key employee for approval by Board staff, and to seek Board Staff approval for any changes to the organizational structure of key employee positions and the level of expertise and qualifications of those key employees.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

Ronald Jackson, Research Scientist, Division of Clean Energy, presented these matters.

B. Docket No. QW20030240 – In the Matter of the Request for a Waiver of SREC Registration Rules at N.J.A.C. 14:8-2.4 (i) – Vision Solar, LLC – Technology Services.

BACKGROUND AND DISCUSSION: On February 25, 2020, Vision Solar LLC (Vision Solar or Petitioner) submitted a Petition on behalf of Technology Services, Moorestown, NJ requesting a second extension to the project construction completion deadline for its Solar Renewable Energy Credit (SREC) Registration Program (SRP) registration. This project is located on the roof of Technology Services and is to be net metered. This is also enrolled in the PSE&G Solar Loan program.

The SRP Administrator granted a first extension with a new completion deadline of January 6, 2020. The original contractor went bankrupt before starting project construction which was completed by Vision Solar on December 20, 2019. However, despite Vision Solar's ability to get the system inspected on December 27, 2019, it was unable to obtain the township's final certificate of approval before the first extension had expired. On February 25, 2020, Vision Solar petitioned the Board for a reactivation of this SRP registration and a second extension to April 1, 2020. In support of its request, the Petitioner stated that PSE&G will not finalize the Solar Loan and that if the project were to receive the Permission to Operate (PTO) without an active SRP registration the customer would lose its loan commitment from PSEG.

Staff recommended that the Board deny the Petitioner request to reactivate the original expired registration and to also deny their request for a second extension filed after the first extension had expired.

Staff also recommended that the Board affirm that Vision Solar may submit a new registration. Since this new registration will be submitted after the 5.1% Milestone has been achieved on April 30, 2020, this project will be eligible for the Transition Incentive Program.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

C. Docket No. QW20030236 – In the Matter of a Request for a Waiver of SREC Registration Rules at N.J.A.C. 14:8-2.4(h)5, (i), and (k) – John C. Shepherd, Jr.

BACKGROUND AND DISCUSSION: On March 11, 2020, John C. Shepherd, Jr. (Petitioner) submitted a petition to the Board requesting a waiver of various provisions of the Renewable Portfolio Standard rules including the Post-construction certification requirement in the Solar Renewable Energy Credit (SREC) Registration Program (SRP). To avoid confusion, the Petitioner advised that he has two solar electric generation facilities installed at his residence and the petition concerns his first installation.

The Petitioner received his SRP registration acceptance letter and SRP19918 number on July 8, 2013 despite the fact that his solar system was completed in December 2012. On July 25, 2014, the Petitioner received a letter from the SRP Administrator informing him that his SRP registration had expired and been deactivated because no Post Construction Certification documentation including Final As-built paperwork or Permission to Operate (PTO) from the EDC had been submitted before the project completion deadline date of July 8, 2014.

The Petitioner claimed that at the time of the SRP Administrator's notice he thought that the project contractor Total Exteriors would "take care of it." When he followed up with the contractor, he found out it had gone out of business. Now he petitions the Board to waive

their rules so he can receive SRECs for the last seven years the system has been operating but not certified for SREC creation or enrolled in PJM-EIS Generation Attribute Tracking System.

Staff recommended that the Board deny the petition since at the time the Petitioner's registration expired, the Petitioner failed to request an extension of the initial registration and he also failed to re-register the project, despite the advice given by the SRP administrator. Staff also recommended that the Board deny the Petitioner's request to waive the SRP rules to reactivate the expired registration. Staff further recommended that the Board advise the Petitioner of the opportunity to participate in the Transition Incentive Program. Finally, Staff recommended that should the Petitioner apply to the Transition Incentive Program, the PTO date of September 28, 2015, be used to start the solar electric generation facility's qualification life, and that the Petitioner be required to conduct a meter reading after the effective date of this order to mark the commencement of electricity generation eligible for TREC creation.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

D. Docket No. QX20010047 – In the Matter of the Verified Petition of Dakota Power Partners, LLC for a Rulemaking Proceeding to Establish Utility-Scale Solar Resources to Qualify for Class I Renewable Energy Credits.

B. Scott Hunter, Renewable Energy Program Administrator, Office of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: On January 15, 2020, the Board received a petition for rulemaking from Dakota Energy, LLC seeking an amendment of the Board's rules on Class I renewable energy. The Petitioner's proposed amendment would make all solar energy generated within or delivered into the PJM region eligible to be the basis for the creation of Class I Renewable Energy Credits (RECs). Specifically, the Petitioner proposed that the Board amend N.J.A.C. 14:8-2.5(b) by replacing existing (b)(1), which allows solar energy in the form of Solar Renewable Energy Certificate (SREC) to be used to satisfy Class I renewable energy requirements, and existing (b)(2), which allows solar energy from SREC-eligible facilities after their qualification life is done, with a single (b)(1) defining as eligible "electricity derived from solar technologies or photovoltaic technologies."

On March 8, 2020, the Board determined to take an additional 90 days to consider the petition. The Petitioner argued that the Clean Energy Act, which sharply increases Class I renewable energy requirements, while also imposing caps on the cost of that energy to ratepayers and directing the Board to close the SREC Registration Program and determine how best to replace it, renders it necessary for the Board to allow utility-scale and out-of-state solar generation facilities to be eligible as the basis for Class I RECs.

Staff recommended that the Board grant the Petitioner's request and initiate public rulemaking without taking any position on the merits of the petition.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

9. MISCELLANEOUS

Thomas Walker, Director, State Energy Services Division, presented these matters.

A. Docket No. GO19070846 – In the Matter of the Exploration of Gas Capacity and Related Issues.

BACKGROUND AND DISCUSSION: By Order dated February 27, 2019, the Board directed Staff to initiate a stakeholder process to determine whether sufficient natural gas capacity “has been secured to serve all of New Jersey's firm natural gas customers as well as whether and to what extent Third-Party Suppliers (TPSs) are saving customers money on their natural gas supply.

As provided in the September 10, 2019 Notice of a stakeholder meeting, the Board sought comments regarding, among other things, the following questions:

- “Does each [Gas Distribution Company (GDC)], (either independently or through a contract with an affiliated company) have sufficient firm capacity secured to meet their current design day forecasts for the next five years?”
- “Do the TPSs have sufficient firm capacity secured to meet their design day forecasts for the customers that they serve in New Jersey for the next five years?”
- “Does sufficient pipeline capacity exist within the New Jersey market to satisfy the total customers' requirements currently served by both TPSs and GDCs? Can additional incremental pipeline capacity be obtained to meet the forecasted customer requirements over the next five years? Would this capacity be more expensive than the current capacity?”

In the course of the stakeholder process, New Jersey Natural Gas (NJNG) submitted comments on October 16, 2019, which included a report by Levitan & Associates, Inc. (LAI) commissioned by NJNG.³ In response, the Environmental Defense Fund and the New Jersey Conservation Fund (collectively, EDF/NJCF) submitted comments on October 22, 2019 disputing some portions of the LAI report, and included an affidavit of Greg Lander, President of Skipping Stone, who conducted an analysis of gas supply available in New Jersey on behalf of EDF/NJCF. The LAI Report and Lander Affidavit reached different conclusions about the medium and long-term capacity needs; however,

neither report identified a near-term capacity shortfall (absent an unforeseen, catastrophic disruption of the interstate pipeline network).

During its December 20, 2019 agenda meeting, the Board directed Staff to take the necessary steps to hire an independent consultant to independently examine the current and future natural gas capacity outlook for New Jersey.

The focus of this investigation is the supply and delivery of natural gas beyond the two-year mark. Staff, therefore, recommended that the Board initiate an investigation into the ability of New Jersey's natural gas customers to maintain reliable access to natural gas supplies in this forward time horizon, starting with hiring a consultant to assist in determining whether sufficient natural gas capacity exists on the regional interstate pipeline system to meet the future Peak Day Demand Forecast of New Jersey's GDCs. The detailed analysis should include evaluation of the adequacy and condition of the physical infrastructure, market conditions, and logistics of the State's Capacity needs for the mid-term outlook, i.e., through 2030.

As New Jersey looks to a future with lower fossil fuel consumptions, the consultant should also evaluate and make recommendations including, but not limited to, voluntary conservation measures and other "nonpipeline" solutions that can reduce the stress on the natural gas system during peak withdrawal periods, which is consistent with the Governor's Energy Master Plan.

The consultant must consider Capacity available to New Jersey based upon the supply, demand, contractual, and other factors that may affect the availability of Capacity on a peak day, including upstream bottlenecks or other sources of stranded Capacity. Further, the consultant should address whether or not the New Jersey GDCs have contractual rights regarding sufficient Capacity, and the implications for New Jersey customers should the analysis and evaluation determine that there is insufficient Capacity to meet New Jersey's winter season peak day demand.

Staff developed a scope of work and a Request for Quotation (RFQ) to solicit a consultant, and created the main tasks required for a full and complete Capacity analysis. The main tasks for the consultant will be:

- Perform the infrastructure, demand, contracts, market and other analysis and research set forth in the Scope of Work (SOW);
- Review the LAI Report and Lander Affidavit submitted and/or referenced in the Board's recent statewide Gas Capacity Proceeding;
- Assist Staff in assessing the risk of a shortfall in natural gas capacity in the medium term, considering the normal factors but also considering the effects of Energy Efficiency and conservation expected as the New Jersey 2019 Energy Master Plan is implemented; and
- Assist Staff in developing a robust set of non-pipe mitigation measures, as described (but not limited to those) in the SOW.

Staff recommended that the Board authorize Staff to issue the RFQ for selection of a consultant. Staff also recommended that the Board direct Staff to continue this stakeholder process and allow those conclusions be known and receive public comment on them.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. EO18080899 – In the Matter of the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants; and

Docket No. EO18121338 – Application for Zero Emission Certificates of Salem 1 Nuclear Power Plant; and

Docket No. EO18121339 – Application for Zero Emission Certificates of Salem 2 Nuclear Power Plant; and

Docket No. EO18121337 – Application for Zero Emission Certificates of Hope Creek Nuclear Power Plant.

BACKGROUND AND DISCUSSION: This matter involved a follow up to the Board’s July 10, 2019 approval of the Zero Emission Certificates (ZEC) forward requirement processes which directed Staff to return before the Board with final recommendations required by the ZEC Act.

With its July 10, 2019 Order, the Board agreed with Staff about the need for a stakeholder process to solicit additional comments, recommendations, and input on the following aspects of continued implementation of the ZEC program:

- 1) Logistics and parameters of the dry cask study;
- 2) Revenue information that should be submitted to the Board annually by selected units, including what monies will qualify as revenues for fuel diversity, resilience, air quality, or other environmental attributes and by what methodology the Board would reduce the number of ZECs received by the selected unit(s);
- 3) The definition of “near full” capacity;
- 4) The timeline and submission schedule for applications for the second ZEC eligibility period;
- 5) The basis on which and by how much the Board would modify the ZEC charge; and

- 6) Parameters of the ten-year study about the “efficacy” of the ZEC program and what information should be collected for the study.

The Board directed Staff to implement the stakeholder process and return to the Board with final recommendations in December 2019. During the course of this process, the Board, with orders of December 20, 2019 and March 25, 2020, granted Staff two extensions on the final requirements until the end of May 2020.

Staff initiated the stakeholder process as directed and a stakeholder meeting was held on September 4, 2019 in New Brunswick, New Jersey for the purpose of soliciting comments on the above listed “going forward” ZEC criteria. The notice included multiple questions on the six specific sections of the Act enumerated above. Staff received oral and written comments from multiple entities, which were reviewed and considered during the creation of the final recommendations. Additionally, Staff reengaged Levitan to assist in reviewing stakeholder comments and in developing the final recommendations applicable to continued implementation of the ZEC program.

Staff developed the following recommendations for forward steps in the ZEC program based on the review of the comments received from the stakeholder process, program review with Levitan, and the goals of the ZEC Act.

The initial eligibility period concludes on May 31, 2022; therefore, Staff determined that the Board must receive and rule on a unit’s demonstration of eligibility by April 30, 2021 for the next three-year eligibility period.

Second eligibility period process: No later than thirteen months prior to the conclusion of the initial eligibility period and no later than thirteen months prior to the conclusion of each three energy-year eligibility period thereafter, a nuclear power plant may demonstrate its eligibility to the Board, and the Board may certify the nuclear power plant’s eligibility to receive ZECs for additional eligibility periods of three energy years, consistent with the provisions of the Act. The initial eligibility period began on June 1, 2019 and concludes at the end of Energy Year 2022 on May 31, 2022. Therefore, the Board may certify units’ eligibility by April 30, 2021 for the next three-year eligibility period, which begins on June 1, 2022 and concludes on May 31, 2025.

Staff recommended the following general timeline, including discovery, preliminary findings, public hearings, written comments, and evidentiary hearings, with more specific dates to be established in a forthcoming procedural schedule to be issued by Staff as follow:

- May/June 2020 – Staff issues application requirements for the second eligibility period for public comment
- June/July 2020 – Staff issues final application requirements for the second eligibility period
- June/July 2020 – Applicants submit notices of intent to file
- September 2020 – Applications due
- September 2020 – Requests for intervention/participation due
- October 2020 – Board makes determinations on intervention and participation
- October – November 2020 – Discovery and written comments on applications

- December 2020 – Staff issues preliminary findings on eligibility and the ZEC charge
- January 2021 – Written comments on Staff’s preliminary findings
- January 2021 – Public hearings on applications
- January – February 2021 – Final discovery and written comments on applications
- February 2021 – Evidentiary hearings
- March 2021 – Initial and reply briefs

Staff also recommended the following:

With respect to ZEC Charge Modification, Staff recommended that this analysis be done utilizing forecast data relevant to the next eligibility period. That data should include all operating expenses, any planned capital improvements, all hedges, any out-of-market revenues, and any other information deemed appropriate by the Board during this analysis. As the Act is nonspecific in how this analysis must be completed, Staff recommends that the Board review whether a unit is projected to cover its costs and risks or its risk adjusted cost of capital, as defined in the Act. The Board should also retain a qualified consultant to assist Staff with this analysis. The analysis should occur concurrently with the eligibility review, with a goal of determining the financial “situation” of the units that participated in the first eligibility period. Parties granted intervener status will also receive the data and may make comments to the Board according to the schedule above. Recommendations to the Board will be made by Staff prior to April 30, 2021. A similar corresponding timeline should be employed in eligibility periods beyond.

Definition of Near Full Capacity: Staff recommended that near full capacity for a given energy year be maximum output, excluding refueling, PJM imposed constraints, and force majeure events, and with a maximum variation of 5% below the average net generation for the prior three years. The actual energy year generation must be provided to the Board by 30 days after the close of the energy year. Any failure to meet this requirement, other than allowed under the Act, will require a detailed explanation by the unit owner(s) submitted to the Board at the same time.

As for the Annual Revenue Review, Staff recommended that this review include all financial documents pertaining to payments, credits, and revenues received by the unit(s) for generation in the prior energy year. Additionally, the original application data pertaining to this information must be updated and/or supplemented from “forecast” values in the application to actual values. Staff (and a qualified consultant to be retained in the future) will then determine which of these revenues qualify as a “dollar amount received” for “fuel diversity, resilience, air quality, or other environmental attributes” or also referenced as a “double payment”. Any funds found duplicative by Staff will be identified to the Board and Staff will recommend that an equivalent number of ZECs, representing the real costs received in duplicate will be subtracted from the prior energy year payment obligation to the unit owners.

With respect to Dry Cask Study, Staff recommended that the owners of the nuclear units currently receiving ZECs engage a consultant qualified to review the existing dry cask storage system in place for each unit, analyze any improvements to methods and procedures developed since construction and utilization of the ISFSI facility, and make recommendations for future improvements, including regarding environmental impacts,

worker safety, and cost impacts. The study should review relevant NRC licenses and inspection reports, applicable licensing and legal requirements, BNE activities, the response of unit owners to any inspection findings associated with dry cask storage, and the license lives of the plants, the ISFSI, and the casks.

As for the Ten-Year Program Evaluation, Staff foresees the study including a full review of the financial performance of each unit, including actual revenues and costs, as well as the profitability of the unit during the ten-year period, and including consideration of what the unit's profitability would have been without ZECs; analysis of full benefits and costs, including energy and non-energy benefits and costs; and program recommendations based on these analyses. Staff recommended that the parameters of this study be revisited after completion of the first eligibility period. In this way, actual data, yearly analyses required under the Act, and program issues, if any, can be incorporated into the study requirements

With respect to ZEC Application, the initial ZEC application was developed to ensure that any possible information required to perform the eligibility review and ranking of applicant units was available. However, during the review process and the information requested by intervening parties, Staff recognized that the application required modification to both include such data requests and eliminate superfluous information gathered in the initial application window. As such, Staff and Levitan developed a revised application, which Staff recommended it be issued as for public comment prior to its finalization.

In short, Staff recommended that the Board approve the forward program requirements, as detailed by Staff in the Order, to complete the ZEC program parameters, procedures and policies. In addition, Staff recommended that the Board direct Staff to solicit public and stakeholder comments on the revised ZEC Application which will be finalized and presented to the Board for approval in July.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

LATE STARTER A

Robert Brabston, Deputy Executive Director, presented this matter.

MISCELLANEOUS

Docket No. EO20030254 – In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations.

BACKGROUND AND DISCUSSION: On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared COVID-19 a “public health emergency of international concern,” which means “an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response.”

On March 9, 2020, Governor Phil Murphy signed Executive Order No. 103, N.J.S.A. App.A:9-45 & App. A:9-47 (EO 103) in response to the COVID-19 Pandemic, in order to ensure the continuity of government services and protect the public during the State of Emergency.

On May 13, 2020, Governor Phil Murphy signed Executive Order No. 142, N.J.S.A. App. 9-39 and -51 (EO 142) which served to modify Executive Order 122 (EO 122) in response to the COVID19 Pandemic. EO 122 prohibited all non-essential construction projects from continuing in the State. In EO 142 the Governor directed that non-essential construction activities may restart, subject to certain safety and social distancing requirements. Accordingly, EO 142 lifts the restrictions on non-essential construction projects subject to certain conditions found in paragraph 2 of EO 142.

In order to ensure that the Board's guidance is consistent with the executive orders, Staff recommended that the Board approve this order which will find that the guidance to the utilities around construction activities, including in-home visits, had been superceded by EO 142 and that all regulated entities may commence or resume non-essential construction projects in accordance with the specific mitigation requirements set forth in that executive order.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Chivukula	Aye
	Commissioner Gordon	Aye

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



AIDA CAMACHO-WELCH
SECRETARY OF THE BOARD