



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

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

A Regular Board meeting of the Board of Public Utilities was held on April 27, 2021, via Teleconference: 1 312 626 6799 Webinar ID: 925 9333 9358 or watch online @ <https://youtu.be/X05HXWuanRs>

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 May 5, 2021 at 10:00 a.m. via teleconference with details to follow.

CONSENT AGENDA

I. AUDITS

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

EE21020496L	Energy Paradigm, LLC	R – EA
EE21020603L	Cutone and Company Consultants, LLC d/b/a LC Associates	R – EA
EE21020121L	Blitz Ventures, Inc. d/b/a EnergyBot	R – EA
EE21020525L	Tri State Energy Consultants, Inc.	R – EA
EE21020523L	Cost Control Associates, Inc.	R – EA
EE21010046L	Onix Energy, LLC	R – EA
EE21020247L	Bakey Energy Consulting	R – EA
EE21010076L GE21010077L	Commercial Utility Consultants, Inc. d/b/a Commercial Utility Consultants	R – EA
EE21020089L GE21020090L	Resource Energy Solutions, LLC	R – EA/PA
EE21020244L GE21020245L	Richards Energy Group, Inc.	R – EA/PA/EC
EE21030634L GE21030635L	Health Resource Network, Inc. d/b/a HRNEnergy	R – EA/PA/EC
EE21020257L GE21020258L	Windstreet Energy, Inc.	R – EA/PA/EC
GE21020623L	Budderfly, Inc.	R – PA

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

- Energy Paradigm, LLC
- Cutone and Company Consultants, LLC d/b/a LC Associates
- Blitz Venture, Inc. d/b/a EnergyBot
- Tri State Energy Consultants Inc.
- Cost Control Associates, Inc.
- Onix Energy, LLC
- Bakey Energy Consulting
- Commercial Utility Consultants, Inc. d/b/a Commercial Utility Consultants
- Resource Energy Solutions, LLC
- Richards Energy Group, Inc.
- Health Resource Network, Inc. d/b/a HRNEnergy
- Windstreet Energy, Inc.
- Budderfly, Inc.

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

II. ENERGY

A. Docket No. GR21030679 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval of an Increase in Gas Base Rates and for Changes in its Tariff for Gas Service, Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1; and for Changes to Depreciation Rates for Gas Property Pursuant to N.J.S.A. 48:2-18.

BACKGROUND: On March 30, 2021, New Jersey Natural Gas Company (NJNG or Company) filed a petition with the Board to: (i) increase its current base rates for natural gas service by approximately \$165.67 million [excluding Sales and Use Tax (SUT)]; (ii) implement certain rate and tariff revisions; and (iii) revise its existing depreciation rates, effective April 29, 2021, but no later than December 30, 2021.

The Company also requested a return on equity of 10.50%. The Company's current base rates and charges for natural gas service are not sufficient at their current level and, if left unchanged, the current base rates will impair NJNG's ability to meet operating and maintenance expenses, taxes, and fixed charges, and its ability to earn a reasonable rate of return on the fair value of the Company's property.

NJNG also sought authority from the Board to do the following:

1. Increase rates and charges for natural gas service that would result from the proposed amendments to the Company's tariff;
2. Update the underlying inventory related costs of its Balancing Charge rate;
3. Incorporate the results of its cost of service study supporting the implementation of new base rates;
4. Update its tariff for certain modifications and revisions; and
5. Recover regulatory assets recorded on the Company's balance sheet, including amortization of these assets.

Since a review of this matter will not be complete prior to April 29, 2021, Staff recommended that the Board issue an order suspending the proposed rate increase until August 29, 2021, pending further action on this matter. Staff also recommended that this matter be transmitted to the Office of Administrative Law for hearing.

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

III. CABLE TELEVISION

A. Docket No. CE19050585 – In the Matter of the Petition of Comcast of New Jersey II, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Town of Secaucus, County of Hudson, State of New Jersey.

BACKGROUND: This matter involved Comcast of New Jersey II, LLC (Comcast) seeking Board approval for Renewal of its Certificate of Approval to provide cable television service to the Town of Secaucus (Town), County of Hudson for a ten year term and contains a one-time technology grant of \$60,000.00 for the Town to meet the technology and/or cable related needs of the community.

On March 19, 2018, Comcast filed an application with the Town for renewal of municipal consent, and on March 26, 2019, the Town adopted an ordinance granting renewal municipal consent to Comcast. On April 11, 2019, Comcast formally accepted the terms and conditions of the ordinance.

On May 15, 2019, Comcast filed with the Board for a renewal of its Certificate of Approval for the Town. After review, Staff recommended that the Board approve the proposed Renewal Certificate of Approval. This Certificate shall expire on December 21, 2028.

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

IV. TELECOMMUNICATIONS

A. Docket No. TF21020094 – In the Matter of the Verified Petition of Level 3 Communications, LLC for Approval to Participate in a Financing Arrangement (02/21).

BACKGROUND: On February 1, 2021, Level 3 Communications, LLC (Petitioner) filed a petition with the Board requesting approval to participate in a financing arrangement in connection with the issuance of \$900 million aggregate principal amount of 3.750% Senior Notes due 2029 by its parent company, Level 3 Financing, Inc. (Financing), for the intended purpose of permitting Financing to redeem \$900 million aggregate principal amount of other debt. The Petitioner stated that this request is a refinancing of transactions previously approved by the Board in 2016.

The Petitioner requested approval to act as guarantor for the Senior Notes upon receipt of the required regulatory approvals, including from the Board. Additionally, Level 3 LLC has issued an intercompany demand note to Financing as part of this financing. Level 3 LLC stated that this action is consistent with prior financing arrangements previously approved by the Board. The Petitioner also requested approval to permit the Intercompany Demand Note, used in exchange for the proceeds of the Senior Notes, to remain unpaid for more than 12 months from the date of issuance.

The Petitioner stated that the new financing arrangement will enable Financing and Level 3 Parent to take advantage of lower interest rates and more favorable maturity terms, thereby significantly reducing interest expenses. The new financing arrangement will provide the Petitioner with the financial flexibility to maintain and expand its networks and services. The Petitioner further asserted that the new financing arrangement will enable it to continue delivering services to new markets, thus allowing more consumers to benefit from its competitive services.

The New Jersey Division of Rate Counsel, by letter dated March 12, 2021, stated that it did not oppose 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 therefore recommended approval of this petition.

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

V. WATER

A. Docket Nos. BPU WR20110729 and OAL PUC 10966-2020 – In the Matter of the Petition of SUEZ Water New Jersey, Inc. for Approval of an Increase in Rates for Water/Sewer Service and Other Tariff Changes – Further Suspension Order.

BACKGROUND: On November 23, 2020, SUEZ Water New Jersey, Inc. filed a petition with the Board seeking to increase rates for water service in the amount of \$35,450,181.00 or approximately 12.00% above the annual level of present rate revenues on January 1, 2021.

On November 24, 2020, the Board transmitted this matter to the Office of Administrative Law for hearing and initial disposition as a contested case. By Order dated December 15, 2020, an initial Suspension Order was issued suspending rates until May 1, 2021.

In view of the fact that this proceeding will not be completed by May 1, 2021, Staff recommended that Board issue an Order further suspending the rates until September 1, 2021.

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

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 March 3, 2021 Agenda Meeting.

BACKGROUND: Staff presented the regular agenda meeting minutes of March 3, 2021, 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

9. MISCELLANEOUS

A. Docket No. ER20080557 – In the Matter of the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 1;

Docket No. ER20080558 – In the Matter of the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 2; and

Docket No. ER20080559 – In the Matter of the Application of PSEG Nuclear, LLC for the Zero Emission Certificate Program – Hope Creek – Executive Session.

Paul Flannigan, Executive Director, presented these matters.

BACKGROUND AND DISCUSSION: On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (C.48:3-87.3 to -87.7) (Act). The Act required the Board to create a program and mechanism for the issuance of Zero Emission Certificates (ZECs), each of which represents the fuel diversity, air quality, and other environmental attributes of one megawatt-hour of electricity generated by an eligible nuclear power plant selected by the Board to participate in the program. Under the program, certain eligible nuclear energy generators may be approved to provide ZECs for the State's energy supply, which in turn will be purchased by New Jersey's four investor-owned electric distribution companies- Atlantic City Electric, Jersey Central Power and Light Company, Public Service Electric and Gas Company and Rockland Electric Company and municipal electric distribution company Butler Electric Utility (collectively, EDCs).

The Act identified the steps required to establish this program, including program logistics, funding, costs, application, eligibility requirements, selection process, and the timeframes for meeting several requirements of the Act. The Act requires that, every three years, the Board shall complete a proceeding to certify applicant nuclear power plants as eligible for the program and establish a rank-ordered list of the nuclear power plants eligible to be selected to receive ZECs.

N.J.S.A. 48:3-87.5(e) (1) through (5) specify the criteria for an applicant to be certified by the Board as an eligible nuclear power plant, including submission of an application fee to the Board in an amount to be determined by the Board, not to exceed \$250,000.00, to be used to defray the costs incurred by the Board to administer the ZEC program.

On August 29, 2018, the Board approved an Order initiating the creation of the ZEC program. Through a series of Orders dated November 19, 2018, the Board approved the form of the ZEC applications, the program process, and the tariffs associated with collection of the funds. On December 18, 2018, the Board approved the selection of Levitan and Associates, Inc. (Levitan or LAI) to serve as a consultant to Board Staff and directed Staff to execute a contract for services. On February 27, 2019, the Board approved the criteria established to rank eligible nuclear power plants for determination of how many of the eligible plants would receive ZECs without exceeding the cap established in the Act.

On August 12, 2020, the Board established the application process for the second eligibility period (June 1, 2022 – May 31, 2025), and ordered that the application period be open and remain open until October 1, 2020 (August 12, 2020 Order). The Board directed applicants wishing to participate in the second eligibility period to submit an intent to file by August 19, 2020. Further, the Board directed persons wishing to obtain access to confidential information during the proceeding to submit their requests to the Board by August 26, 2020,

On August 19, 2020, the Board received notices of intent to file applications for issuance of ZECs for three nuclear power plants. PSEG Nuclear, LLC (PSEG Nuclear) and Exelon Generation, LLC (Exelon) submitted an intent to file for their jointly owned Salem 1 (Salem 1) and Salem 2 Nuclear Generating Plant (Salem 2), and PSEG Nuclear submitted an intent to file for the Hope Creek Nuclear Generating Plant.

PSEG argued that the Hope Creek, Salem 1, and Salem 2 applications fully satisfy the eligibility criteria set by the Legislature and, as such, the Board should extend the current ZEC charge of \$10/MWh for the second eligibility period.

In addition to the brief submissions from the parties, the Board received eligibility reports prepared by Levitan, which are included in the Board Order. Levitan, in its report, analyzed the confidential financial submissions from the applicants, and the eligibility criteria for the ZEC Act.

The applicants satisfied all of the criteria of the statute that they are licensed to operate by the United States Nuclear Regulatory Commission through 2030 or later; receive no payment or credit from government entities; and have each submitted the application fee.

The New Jersey Division Rate Counsel and intervenors contend that the applicants have overstated the environmental benefits of the nuclear plants. Having thoroughly reviewed the record, and having received the advice of our professional consultant and Staff, they concluded that all three plants “make a significant and material contribution to the air quality in the State by minimizing emissions that result from electricity consumed in New Jersey,” and that retirement of any one of the plants would significantly and negatively impact New Jersey’s ability to comply with state air emissions targets. The environmental studies submitted with the applications indicate that retirement of any one plant will result in significant increases in greenhouse gas emissions, and in ozone levels.

ZEC – Salem Unit 1:

Staff found that Salem 1 has satisfied the eligibility criteria under the ZEC Act for the second eligibility period. Therefore, Staff recommended that Salem 1 be awarded ZECs in accordance with the Act.

DECISION: After discussion, the Board adopted the recommended motion from the Bench.

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

ZEC – Salem Unit 2:

Staff found that Salem 2 has satisfied the eligibility criteria under the ZEC Act for the second eligibility period. Therefore, Staff recommended that Salem 2 be awarded ZECs in accordance with the Act.

DECISION: After discussion, the Board adopted the recommended motion from the Bench.

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

Hope Creek:

Staff found that Hope Creek has satisfied the eligibility criteria under the ZEC Act for the second eligibility period. Therefore, Staff recommended that Hope Creek be awarded ZECs in accordance with the Act.

DECISION: After discussion, the Board adopted the recommended motion from the Bench.

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

1. AUDITS

There were no items in this category.

2. ENERGY

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

A. Docket No. ER20120736 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Electric Infrastructure Investment Recovery Charges Pursuant to the Second Energy Strong Program (Energy Strong II).

BACKGROUND AND DISCUSSION: On December 1, 2020, Public Service Electric and Gas Company (PSE&G or Company) filed a petition (December Petitioner) with the Board seeking approval for recovery of costs associated with its Energy Strong II Program (Program) (December 2020 Petition). PSE&G sought approval to recover an electric revenue requirement of \$13.523 million associated with \$118.385 million of electric plant in-service investments. The December 2020 Petition was based upon actual data from October 1, 2019 through October 31, 2020 and projected data from November 1, 2020 through January 31, 2021, and only sought recovery of the electric investment portion of Program costs through January 2021.

On February 19, 2021, the Company updated the December 2020 Petition to include actual Program expenditures through January 31, 2021 (February Update). The February Update reflected a proposed electric revenue requirement of \$12.728 million related to Program capital investment costs of \$105.949 million.

Upon review of the December 2020 Petition and Update, PSE&G, the New Jersey Division of Rate Counsel, and Board Staff (collectively, the Parties) executed a stipulation of settlement (Stipulation) resolving all of the issues related to the December 2020 Petition.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties. Staff also recommended that the Board direct PSE&G to file tariffs consistent with its Order prior to May 1, 2021.

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. GR20070504 – In the Matter of the Petition of South Jersey Gas Company to Revise the Levels of its Societal Benefits Clause and its Transportation Initiation Clause Charge.

BACKGROUND AND DISCUSSION: On July 31, 2020, South Jersey Gas Company (SJG or Company) filed a petition with the Board requesting approval to revise the rates pertaining to its Transportation Initiation Clause (TIC), and two elements of the Company's Societal Benefits Charge (SBC): the Remediation Adjustment Clause (RAC) and the Clean Energy Program (CLEP) (July 2020 Petition).

SJG sought approval to increase its per therm RAC rate from \$0.048815 to \$0.050626, resulting in an annual revenue increase of \$1.0 million. For the CLEP component, SJG sought approval to increase the rate from \$0.019265 to \$0.028475, resulting in an annual revenue increase of \$4.9 million. SJG further sought approval to decrease its TIC rate from \$0.001321 to \$0.000386, resulting in an annual revenue decrease of \$0.4 million. On a combined basis, the July 2020 Petition sought to increase the overall annual level of its SBC and TIC by \$5.5 million.

Through discovery, SJG updated the July 2020 Petition to include actual data through May 2020. Based upon the updates, the data supported an annual increase of \$5.5 million.

Following a review of the July 2020 Petition and discovery responses, SJG, the New Jersey Division of Rate Counsel, and Board Staff (collectively, the Parties) executed a stipulation of settlement (Stipulation) allowing SJG to increase the revenues recovered through the RAC, CLEP, and TIC consistent with the requests in the July 2020 Petition for the RAC and CLEP components and using the updated information for the TIC component.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties. In addition, Staff recommended that the Board direct SJG 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. QO19010040 – In the Matter of the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; and

Docket No. EO20090620 – In the Matter of the Verified Petition of Jersey Central Power and Light Company for Approval of JCP&L’s Energy Efficiency and Conservation Plan Including Energy and Peak Demand Reduction Programs.

BACKGROUND AND DISCUSSION: On September 25, 2020, Jersey Central Power and Light Company (JCP&L or Company) filed a petition with the Board seeking approval of a proposed Energy Efficiency (EE) and Peak Demand Reduction program (EE&C Plan). JCP&L proposed to implement 11 subprograms, including five residential subprograms, one multi-family subprogram, four commercial and industrial subprograms, and one peak demand reduction subprogram.

The proposed investment for the EE&C Plan was approximately \$230.1 million, including administration costs. In addition, the Company requested approval of two separate cost recovery mechanisms. Specifically, the first proposed mechanism would recover the revenue requirement associated with the costs to implement the EE&C Plan, including incentives, outside services, inspections and quality control, information technology costs, and operations and maintenance costs. The second proposed mechanism would recover the potential lost revenues from reduced electricity sales associated with the EE&C Plan through a lost revenue adjustment mechanism.

Following extensive discovery and several settlement conferences, JCP&L, Board Staff, the New Jersey Division of Rate Counsel, and the Energy Efficiency Alliance of New Jersey (collectively, Signatory Parties) executed a stipulation of settlement (Stipulation) that addresses the issues in the Petition. The New Jersey Large Energy Users Coalition filed a letter of non-opposition.

Staff recommended that the Board issue an Order approving the Stipulation of the Signatory Parties. Staff also recommended that the Board direct JCP&L to file the appropriate tariff sheets consistent with the terms and conditions of the Order by July 1, 2021.

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. QO19010040 – In the Matter of the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; and

Docket No. EO20090621 – In the Matter of the Petition of Atlantic City Electric Company for Approval of an Energy Efficiency Program, Cost Recovery Mechanism, and Other Related Relief for Plan Years One through Three.

BACKGROUND AND DISCUSSION: On September 25, 2020, Atlantic City Electric Company (ACE or Company) filed a petition with the Board requesting approval to implement a three year energy efficiency (EE) program (Program) (Petition). The Company sought approval to implement 13 subprograms, including eight residential subprograms, one multi-family subprogram, and four commercial and industrial subprograms.

The proposed investment for the Program was approximately \$99 million, including administrative costs. The Company requested approval of a cost recovery mechanism. Specifically, ACE requested authority to create a regulatory asset to capture the incremental capital investment costs related to the Program and to implement a Rider EE. Rider EE would be set annually based upon budgeted and actual expenditures through annual filings, subject to Board approval. ACE also sought Board approval of a modified electric Conservation Incentive Program to recover a portion of the Company's revenues that would be lost as a result of the successful implementation of the Program and the related decrease in energy sales.

Following discovery and several settlement conferences, ACE, the New Jersey Division of Rate Counsel, Board Staff (Staff), the Energy Efficiency Alliance of New Jersey and the Natural Resources Defense Council executed a stipulation of settlement (Stipulation) resolving the issues in the Petition.

Staff recommended that the Board approve the Stipulation and direct ACE to file the appropriate tariff sheets by July 1, 2021.

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. QO19010040 – In the Matter of the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; and

Docket No. EO20090623 – In the Matter of the Petition of Rockland Electric Company for Approval of its Energy Efficiency and Peak Demand Reduction Programs.

This matter was deferred.

3. CABLE TELEVISION

A. Docket No. CX21020139 – In the Matter of Requests for an Investigation into the Operations of Altice USA in New Jersey.

Lawanda R. Gilbert, Esq., Director, Office of Cable Television and the Office of Telecommunications, presented this matter.

BACKGROUND AND DISCUSSION: On February 17, 2021, the Board initiated an investigation into the adequacy of service provided by Altice USA, Inc. (Altice or the Company).

The Board and the Office of Cable Television and Telecommunications (OCTV&T) received numerous complaints and inquiries from at least ten municipalities and several state legislators concerning various issues their residents and constituents are experiencing regarding the service provided by Altice, including but not limited to frequent and lengthy service disruptions (across all services), inconsistent connections and fluctuating Internet speeds, long telephone wait times, poor customer service, and an inability to receive satisfactory responses to these complaints from the company both before and after the COVID-19 pandemic. Both the customers and municipal representatives maintain that Altice has failed in its duty to provide safe, adequate and proper service to their residents. The Board and the OCTV&T have also received complaints directly from Altice customers concerning the same issues presented by the municipalities.

During the virtual public hearing on March 16, 2021, over 300 participants were in attendance. The New Jersey Division of Rate Counsel (Rate Counsel) along with over 60 speakers, including municipal officials, expressed the varying experiences that they and their constituents had regarding the services provided by Altice. Detailed encounters were provided with regard to the lack of competition, untrained customer service staff, long hold times, persistent outages, service plan coverage, inadequate repairs, and alleged non-compliance with merger conditions resulting from Altice's acquisition of Cablevision and overall dissatisfaction with the services provided.

Altice provided testimony at the hearing indicating their commitment to ensuring all of their over 900,000 customers served in over 200 municipalities throughout the state receive reliable service. They provided an overall summary highlighting actions they have taken to address the pandemic, including network enhancements they have implemented, referencing 28 million dollars in accelerated network investment in 2020; the addition of

hundreds of personnel, and assistance programs to assist customers and comply with the Governor's Executive Order.

In addition to providing comments at the public hearings, Altice customers provided over three hundred written comments and/or complaints to the Board during the comment period following the public hearing, which outlined in detail the magnitude of the issues experienced, with the highest number of complaints concentrated on slow or spotty internet service, extended hold times, service inadequacies, and multiple tech visits.

The Rate Counsel along with several municipalities filed written comments recommending that the Board proceed with an in-depth investigation to assess the functionality and capabilities of the Company's network/infrastructure and its business practices, and proposed several areas of inquiry including Altice's compliance with federal and state consumer protection and service quality standards, as well as Merger conditions under the Board's approval of Altice's purchase of its predecessor, Cablevision.

Staff reviewed the numerous comments provided in this proceeding and agreed with commenters urging further investigation into Altice's operations. Staff proposed several inquiries be sent to Altice to obtain detailed data on network expenditures and personnel additions noted in the Company's testimony provided at the hearings. In addition, information was also sought from Altice regarding their compliance with various commitments given by the Company on network enhancement and customer service employment in the Board's Order approving the acquisition of Cablevision by Altice in 2016.

While Altice provided testimony at the public hearing, they did not provide written comments, so the answers to inquiries proposed in the Board Order will provide the ability for the Company to substantiate many of the assertions made and formally place them on the record of the investigations. Staff believes this will ensure transparency in the proceeding. Therefore, Staff recommended approval of the proposed Board Order requiring Altice to provide answers to the inquiries sought within 30 days of the date of the 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

4. TELECOMMUNICATIONS

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

A. Docket No. TO21020385 – In the Matter of the Petition of AT&T Corporation Notice of Intention to Withdraw Residential Local Service and Request for Waiver of N.J.A.C.14:10-12.1 et seq.

BACKGROUND AND DISCUSSION: On March 10, 2021, AT&T Corp. (AT&T or Company) filed a petition with the Board indicating that it plans to cease providing Residential Local Service, including any Custom Calling Features, rate plans and other associated services in the State by May 3, 2021, and requesting that the Board either not apply or waive the application of N.J.A.C. 14:10-12.1 et seq. (Mass Migration Rules) in connection with the withdrawal of service.

The Company argued that the Mass Migration rules are not applicable because as a reseller, it does not obtain numbering resources from North American Numbering Plan Administrator and that there is no proposed transfer of assets or control. In addition, it argued that its service withdrawal is distinguished from a mass migration because customers are not being compelled in any way to retain landline telephone service or move to a particular carrier.

In addition to notifying the Board and its customers, AT&T filed an application with the Federal Communications Commission (FCC) on March 19, 2021, for authority to discontinue AT&T Residential Local Service throughout its service territory in Delaware, Massachusetts, Maryland, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia.

The Company will continue to provide residential toll and long distance services, as well as business services, in the State. According to the Company, it is withdrawing from residential local service based on a decline in the number of end users who use a traditional access line for voice communications, which has resulted in a reduction in customers of over 61% since 2015 as customers choose Voice over Internet Protocol, cable or wireless alternatives.

The Company has approximately 7065 local residential lines in service in New Jersey. Primary notices of the planned withdrawal were initially mailed to customers on or about January 25 through February 4, 2021. Additional letters were mailed on March 25 and April 19, 2021. The Company also provided notice to customers throughout March and April 2021 through Bill Page Messages (BPMs), which are being followed up with automated calls comprised of a recorded message reminding customers that they need to act to switch to a different provider. BPMs will continue through April 2021.

On April 6, 2021, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments asserting that “discontinuance of service by a service provider triggers certain customer notice requirements under N.J.A.C. 14:10-12.3.” The Rate Counsel contended, however, that some of the requirements set forth in the Mass Migration Rules are inapplicable to AT&T’s proposed withdrawal.

Additionally, Rate Counsel believed that AT&T should provide the Board with confirmation that notice of its exit of the market has been provided to the incumbent local exchange carriers in its service territory as required under N.J.A.C. 14:10-12.5(c).

Staff, along with the Division of Law reviewed the filings in this matter and did not object to AT&T's planned withdrawal. However, Staff believed that the planned withdrawal is governed by the Mass Migration Rules.

AT&T's status as a reseller of residential local service does not negate its status as a telephone service provider, operating in New Jersey and its withdrawal from a service territory; therefore, it falls within the purview of the Mass Migration Rules.

In light of the several notices provided by AT&T to its customers, Staff, however, believed the Company has substantially complied with the intent and spirit of the Mass Migration Rules, most notably in providing timely and meaningful notice to customers in several formats, including the establishment of a toll free number for customer inquiries.

Staff recommended approval of AT&T's notice of withdrawal as well as a waiver of the Mass Migration Rules. Staff concurred with Rate Counsel's recommendation that AT&T provide the Board with copies of the notices provided as well as provide updates on the transition of the customer base following their withdrawal from the market.

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. TO21010003 – In the Matter of the Verified Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Rural Digital Opportunities Fund Support.

BACKGROUND AND DISCUSSION: On January 4, 2021, Starlink Services, LLC (Starlink Services or the Company), filed a Petition with the Board requesting designation as an Eligible Telecommunications Carrier (ETC) for the purposes of receiving Rural Digital Opportunities Fund (RDOF) support to provide satellite broadband and Voice-over-IP (VoIP) to designated service areas in New Jersey (Service Area).

On January 30, 2020, the RDOF program was established to foster development and rapid deployment of broadband networks to underserved areas across the United States. The program committed up to \$20.4 billion over a ten-year period to support the availability of high-speed broadband networks in rural and underserved areas.

On November 25, 2020, the auction concluded and SpaceX was awarded \$885 million in 35 states, including \$10,739,474.00 over 10 years to provide service to 2,423 Census Blocks in New Jersey comprising all or parts of 298 municipalities. On December 22, 2020, pursuant to the procedures developed by the Federal Communications Commission (FCC), SpaceX assigned its winning bids to its wholly-owned subsidiary Starlink Services.

In 2018, the FCC authorized SpaceX to deploy and operate 4,400 Non-Geostationary Orbit satellites in low Earth orbit. The placement enables the Company to provide fast, low latency broadband service to consumers. The Company currently has 1145 satellites and a robust ground network and is providing beta service in nine states.

The Company will offer its broadband service at throughput speeds exceeding 100/20 Mbps and voicegrade service. Customer Premises Equipment will be required and includes the Starlink Services antenna, wifi router, power supply, cables and a mounting tripod at an upfront cost of \$499. The service is currently being provided in other parts of the United States at \$99 per month. The Company does not currently provide commercial service in New Jersey and has not developed a complete description of plans, including rates, terms and conditions, but will comply with all federal and state requirements as well as provide all relevant data and information to the FCC and Board if approved.

In accepting the RDOF funding, the Company is required to meet the following milestones for commercial voice and broadband service: 40% of the awarded locations in the service area by the end of the third full calendar year following funding authorization, and 20% each year thereafter, resulting in 100% deployment to funded locations throughout the service area by the end of the sixth calendar year.

In addition to providing voice and broadband service, as an ETC the Company is required to offer Lifeline service consistent with the FCC's current and future requirements.

By letter dated March 18, 2021, the New Jersey Division of Rate Counsel (Rate Counsel) submitted comments to the Board and recommended that the Board's Order require Starlink Services, prior to the commencement of service to New Jersey subscribers, to file specifics on the terms and conditions of service for Lifeline service offerings, such as:

- 1) The numbers of free monthly voice minutes, unlimited text and picture messages;
- 2) The amount of GB of data per month, and the net cost of the service after application of Lifeline support;
- 3) If customers will be able to purchase additional minutes or data as needed and the rate;
- 4) If Lifeline customers will receive at no additional charge any equipment (i.e. free handset or SIM card); If not, provide the charge for the equipment needed;
- 5) If Lifeline customers will receive at no additional charge access to voice mail; caller I.D.; call forwarding; 3-way calling, and other call waiting features; nationwide long distance calls; calls to the Company's customer service and 911 emergency calls as part of standard service (at no additional charge); and
- 6) If Lifeline standalone Broadband will be offered and if customers will receive 25/3Mbps or higher, without a cap, if customers may purchase higher speed and at what price and the ability to optionally add voice services.

Rate Counsel did not oppose Board approval of Starlink Services as an ETC in the State of New Jersey.

Staff reviewed the filings submitted in this matter and believed Starlink had demonstrated that it meets the necessary statutory criteria, and therefore recommended approval of Starlinks petition for designation as an Eligible Telecommunications Carrier.

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 No. WO21020617 – In the Matter of the Petition of the Merchantville-Pennsauken Water Commission for Approval of a Water Main Asset Management and Maintenance Services Agreement Pursuant to the New Jersey Water Supply Public Private Contracting Act, N.J.S.A. 58:26-19 et seq. and N.J.S.A. 58:26-25.

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

BACKGROUND AND DISCUSSION: On February 22, 2021, the Merchantville-Pennsauken Commission (Merchantville) filed a petition with the Board seeking approval of a contract with Advanced Water Solutions/Utility Service Co., Inc. (SUEZ or Company) for a long-term water main asset management and maintenance program agreement (Public-Private Contract).

Merchantville is a regional municipal water authority that owns and operates a water supply, transmission and distribution system and provides service to approximately 15,000 customers in Pennsauken, Merchantville, Cherry Hill and Camden. The Board's jurisdiction over Merchantville is limited to approval of the public private contract and any changes or modification to the contract.

The Public-Private Contract provides that SUEZ will undertake an annual network condition assessment with machine learning of Merchantville's water distribution system.

The New Jersey Department of Community Affairs, Division of Local Government Services, Local Finance Board approved the Public-Private Contract at its April 14, 2021 agenda meeting. The First Year Annual Contract Price shall be \$1,200,000.00.

By letter dated April 8, 2021, the New Jersey Division of Rate Counsel filed comments stating that it did not object to the Public-Private contract and was not opposed to the Board's approval of the Petition.

Staff recommended that the Board approve the Public-Private Contract.

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

A. Docket Nos. BPU WC19101333U and OAL PUC 17770-19 – In the Matter of Theodore Ubanwa, Petitioner v. New Jersey American Water Company, Respondent – Billing Dispute.

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

BACKGROUND AND DISCUSSION: On September 17, 2019, Theodore Ubanwa (Petitioner) filed a petition with the Board requesting a formal hearing, regarding a billing dispute with New Jersey American Water Company (NJAW or Company).

On December 16, 2019, this matter was transmitted to the Office of Administrative Law for a hearing as a contested case. Administrative Law Judge (ALJ) Nanci G. Stokes filed an Initial Decision in this matter with the Board on February 26, 2021. At the April 4, 2021, 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.

The Petitioner alleged that NJAW incorrectly billed his account, and asserted that the incorrect billing resulted due to a faulty water meter. The Petitioner disputed the bills for water service from NJAW dated February 2019 through April 25, 2019.

NJAW, in its answer dated November 22, 2019, contended that services were supplied and billed in accordance with terms and conditions and rate schedules set forth in its Board approved Tariff. NJAW further contended that the meter in question was removed for testing and it was found to be accurate.

ALJ Stokes concluded that the Petitioner did not prove by preponderance of the evidence that he was improperly billed by NJAW, therefore ALJ Stokes ruled that all relief sought by the Petitioner be denied and the petition be dismissed.

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

There were no items in this category.

EXECUTIVE SESSION

After appropriate motion, the following matter, which involved pending litigation attorney/client privilege and contract negotiation pursuant to the Open Public Meetings Act at N.J.S.A. 10:4-12(b)7 was considered for discussion in Executive Session.

9. MISCELLANEOUS

A. Docket No. ER20080557 – In the Matter of the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 1;

Docket No. ER20080558 – In the Matter of the Application of PSEG Nuclear, LLC and Exelon Generation Company, LLC for the Zero Emission Certificate Program – Salem Unit 2; and

Docket No. ER20080559 – In the Matter of the Application of PSEG Nuclear, LLC for the Zero Emission Certificate Program – Hope Creek.

There were no discussions regarding this matter in Executive Session. Refer to open session minutes.

After appropriate motion, the Board reconvened to Open Session.

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



AIDA CAMACHO-WELCH
SECRETARY OF THE BOARD

Date: June 9, 2021