



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st 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 December 1, 2021, via online @ <https://youtu.be/MQjDXSMGfaE>

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

*Commissioner Gordon participated by phone.

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

It was also announced that the next regular Board Meeting will be held on December 15, 2021 at 10:00 a.m. via livestream on youtube.

CONSENT AGENDA

I. AUDITS

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

EE21101162L	Energy Brokerage Services, LLC	R – EA
EE21071039L	Energy Price Management Group, LLC	R – EA
EE21060884L	MSI Utilities, Inc.	R – EA
EE21081084L	Premier Energy Group, LLC	R – EA
EE21081077L GE21081078L	Affiliated Power Purchasers Int’l, LLC d/b/a/ APPI; APPI Energy	R – EA/PA
EE21050840L GE21050841L	Usource, LLC	R – EA/PA
EE21071027L GE21071028L	Precision Group, LLC	R – EA/PA/EC

BACKGROUND: The Board must register all energy agents, private aggregators, and energy 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. At its regular agenda meeting on August 18, 2021, the Board approved the final adoption of proposed amendments to N.J.A.C. 14:4 et seq., concerning energy competition and specifically to subchapter 5, N.J.A.C. 14:4-5 et seq., Energy Licensing and Registration. In accordance with the rule amendments, an energy agent, private aggregator, or energy consultant registration shall not expire so long as a registration renewal fee accompanied by an annual information update form is submitted to the Board within 30 days prior to the registrant’s annual anniversary date. Any registration renewal application that was filed prior to August 18, 2021 has been, and will continue to be processed by Staff for approval or denial in accordance with N.J.A.C. 14:4-5.9. The anniversary date for companies with a pending

application will be the date that the renewal application receives Board approval. 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:

- Energy Brokerage Services, LLC
- Energy Price Management Group, LLC
- MSI Utilities, Inc.
- Premier Energy Group, LLC
- Affiliated Power Purchasers Int'l, LLC d/b/a APPI, APPI Energy
- Usource, LLC
- Precision Group, LLC

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

II. ENERGY

A. Docket No. EF21070997 – In the Matter of the Petition of Atlantic City Electric Company Pursuant to N.J.S.A. 48:2-13 and N.J.S.A. 48:3-9 for Authority to Issue up to \$350 Million of Short-Term Indebtedness Prior to January 1, 2024.

BACKGROUND: On July 21, 2021, Atlantic City Electric Company (ACE or Petitioner) filed a petition with the Board requesting authority to continue to issue, renew or extend unsecured short-term indebtedness (Short-Term Debt) from time to time prior to January 1, 2024, in an aggregate principal amount outstanding at any one time not in excess of \$350 million. The Board, in an Order issued in connection with BPU Docket No. EF19091155 dated December 6, 2019 (2019 Order), authorized the Petitioner to issue similar Short-Term Debt prior to January 1, 2022.

The Petitioner avers that cash requirements associated with the Petitioner's construction program will be provided by means of internally generated funds, and to the extent necessary, through external financing. However, the Petitioner anticipated that short-term external financing will also be needed to provide for temporary financing of construction program expenditures and other general corporate transactions. The Petitioner requested that the Board extend to January 1, 2024, the authorization previously granted by this Board in the 2019 Order relating to the issuance of Short-Term Debt by the Petitioner, and to continue the limit of that authorization of \$350 million with regard to the aggregate amount of Short-Term Debt that may be outstanding at any one time.

The New Jersey Division of Rate Counsel, by letter dated November 15, 2021, recommended ACE's request for short-term debt authority, subject to certain conditions.

After review of the information submitted in this proceeding, the Office of the Economist found that the action requested is in accordance with the law and in the public interest and therefore recommended approval of this petition, subject to certain conditions which are set forth in the Board Order.

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

B. Docket No. EF21060943 – In the Matter of the Petition of Public Service Electric and Gas Company Pursuant to N.J.S.A. 48:3-7 and 48:3-9 for Authority, from January 1, 2022 through December 31, 2023, to Sell and/or Encumber Property and Purchase, Issue and Sell Debt.

BACKGROUND: On June 23, 2021, Public Service Electric and Gas Company filed a petition with the Board requesting authority for the period from January 1, 2022 through December 31, 2023 to issue and sell new long-term debt in aggregate principal amount to:

- (1) Execute and deliver one or more indentures or supplemental indentures and/or one or more pledges, Uniform Commercial Code (UCC) financing statements and related agreements and instruments, creating one or more encumbrances and/or liens on the property and/or assets of Petitioner and providing for pledges, transfers or sales of assets and/or issuance of its First and Refunding Mortgage Bonds (Mortgage Bonds) and/or Medium-Term Notes (MTNs) and/or debenture bonds (Debentures) and/or promissory notes (Notes) and/or other debt instruments and/or evidences of indebtedness, secured or unsecured (collectively, New Long-Term Debt), having maturities of from 1 to 40 years;
- (2) Purchase through tender offer, open market, or negotiated transactions, redeem, including at a premium, or defease any or all of its currently outstanding debt payable more than 12 months after the date of original issuance (Outstanding Long-Term Debt Securities) at or above par to achieve cost savings or more efficient management of its capital structure; and
- (3) Issue and sell, New Long-Term Debt in aggregate principal amount (a) of not more than \$3,175,000,000.00 and (b) as necessary to cover principal, premiums and expenses incurred to refinance Outstanding Long-Term Debt Securities acquired as described in (2), above.

By letter dated November 12, 2021, the New Jersey Division of Rate Counsel stated that it did not oppose the action requested by the Petitioner.

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.

C. Docket Nos. BPU EC18070733 and OAL PUC 16048-18 – In the Matter of Gwendolyn Davis/Thomas Family, Petitioner v. Atlantic City Electric Company, Respondent.

BACKGROUND: On July 16, 2018, Gwendolyn Davis (Petitioner) filed a petition with the Board seeking monetary compensation from Atlantic City Electric Company (ACE) for “unlawful” encroachments on her property and the removal of equipment from her property.

On October 26, 2018, ACE filed an answer to the Petition, denying that there were any “unlawful and unethical practices”.

On November 2, 2018, the matter was transferred to the Office of Administrative Law for hearing as a contested case, where it was assigned to Administrative Law Judge (ALJ) Tama B Hughes.

On October 5, 2021, the Petitioner and ACE executed a Stipulation of Settlement (Stipulation).

By Initial Decision dated October 22, 2021, ALJ Hughes found that the Stipulation was voluntary, its terms fully disposed of all issues in controversy and it was consistent with the law.

Staff recommended that the Board issue an Order adopting the Initial Decision and Stipulation executed by the parties.

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

III. CABLE TELEVISION

A. Docket No. CE20100669 – 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 Township of Woodbridge, County of Middlesex, State of New Jersey.

BACKGROUND: On December 19, 2018, Comcast of Garden State, LP (Comcast) filed a petition with the Board for an Automatic Renewal of Approval for the Township of Woodbridge (Township). On June 23, 2020, the Township, after public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner (Ordinance). The Petitioner formally accepted the terms and conditions of the Ordinance on July 8, 2020. On October 23, 2020, the Petitioner filed with the Board for a renewal of its Certificate for the Township.

Staff reviewed the application for municipal consent, the municipal consent ordinance and the petition for a Renewal Certificate of Approval, and recommended approval. This Certificate shall expire on August 31, 2029.

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

B. Docket No. CE20010072 – In the Matter of the Petition of Comcast of Wildwood, LLC, for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Mount Ephraim, County of Camden, State of New Jersey.

BACKGROUND: On January 24, 2020, Comcast of Wildwood, LLC filed a petition for an Automatic Renewal Certificate of Approval for the Borough of Mount Ephraim (Borough) based on the automatic renewal provision.

The petition is based on the Borough's ordinance granting renewal municipal consent, which was adopted September 2, 2004. The Borough's ordinance granted a term of 15 years with an automatic renewal term of 10 years. The initial term expired on October 10, 2019.

After review, Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire on October 10, 2029.

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

C. Docket No. CE20010069 – In the Matter of the Petition of Comcast of Garden State, L.P., for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Wrightstown, County of Burlington, State of New Jersey.

BACKGROUND: On January 24, 2020, Comcast of Garden State, LP filed a petition for an Automatic Renewal Certificate of Approval for the Borough of Wrightstown (Borough) based on the automatic renewal provision, for a term to expire on November 7, 2029.

The petition is based on the Borough's ordinance granting renewal municipal consent, which was adopted August 11, 2004. The Borough's ordinance granted a term of 15 years with an automatic renewal term of 10 years. The initial term expired on November 7, 2019.

After review, Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire on November 7, 2029.

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

IV. TELECOMMUNICATIONS

A. Docket No. TF21081081 – In the Matter of the Verified Petition of Xtel Communications, Inc. for Approval to Incur Debt.

BACKGROUND: On August 24, 2021, Xtel Communications, Inc. (Xtel or Petitioner) filed a petition with the Board requesting approval to incur new indebtedness needed to fund Xtel's continued expansion and growth.

Xtel sought to borrow \$8,700,000.00 (Indebtedness) and to pledge its assets as security for the Indebtedness, in accordance with the following tentative terms:

Principal Amount: \$8.7 million
Debt Instrument: Term Note
Maturity: December 1, 2027
Interest Rate: 5.75 %

Xtel represented that the Indebtedness will be used to pursue acquisitions and other investments, such as adding to Xtel's existing network infrastructure, working capital requirements (including the development and expansion of distributed network systems), and general corporate purposes of the Petitioner.

Xtel stated that the proposed Indebtedness will serve the public interest. Among other things, the proceeds of the Indebtedness will 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 Indebtedness will provide access to financial resources that will allow the Petitioner to become a more effective competitor in the communications industry. The Indebtedness is necessary and appropriate, will not impair the Petitioner's ability to provide its services, and will promote its corporate purposes. The Petitioner fully expects to be able to repay the Indebtedness in accordance with its terms, and without any disruption of service or customer confusion or inconvenience.

The New Jersey Division of Rate Counsel, by letter dated November 9, 2021, stated that it did not object to approval of the Petition.

After review, Staff recommended approval of the petition, subject to the conditions set forth in the Board Order.

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

V. WATER

A. Docket Nos. BPU WR21050813 and OAL PUC 04690-21 – In the Matter of Middlesex Water Company for Approval of an Increase in its Rates for Water Service and Other Tariff Changes.

BACKGROUND: On May 20, 2021, Middlesex Water Company (Middlesex, Company or Petitioner) filed a petition with the Board seeking to increase base water rates in the amount of approximately \$31.3 million or 37.79%. Middlesex proposed that the increase become effective on February 22, 2022.

According to the petition, the Company filed for the recovery of prudently-incurred investments made to address aging drinking water infrastructure and a variety of other improvements to help ensure continued resiliency, reliability and overall quality of service since the last rate case. The Company indicated that, since its last base rate case, it has invested approximately \$267 million as part of its "Water for Tomorrow" capital improvement program which includes several large scale infrastructure projects, all of which have been completed.

Middlesex further stated that it is engaged in the construction of the Western Transmission Main, a large diameter 4.5-mile transmission pipeline needed to provide critical backup water supply and system resiliency. Additionally, the Company completed the construction of a new ozone treatment facility at its Carl J. Olsen Water Treatment plant, where ozone will now be used as a primary disinfectant of byproducts and ensure compliance with increasing regulatory requirements.

The Company added that other improvements include upgrades to its raw water intake station on the Delaware and Raritan Canal, as well as improvements related to supplementing emergency power generation and further mitigating environmental impacts related to the water treatment process.

By Order dated June 24, 2021, the Board suspended the proposed rate increase until October 21, 2021 pending further action on this matter. The matter was subsequently transmitted to the Office of Administrative Law as a contested case, and was assigned to Administrative Law Judge Jacob S. Gertsman for consideration and hearing

After review, Staff recommended that the Board issue a further Order suspending the rates until February 22, 2022.

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

B. Docket Nos. BPU WR21071006 and OAL PUC 06672-21 – In the Matter of the Petition of the Atlantic City Sewerage Company for Approval to Increase Tariff Rates and Charges for Sewerage Service and Other Tariff Changes.

BACKGROUND: On July 23, 2021, Atlantic City Sewerage Company (Petitioner, ACSC or Company) filed a petition with the Board seeking to increase rates for water service in the amount of \$2,553,770.00 or approximately 11.9% above the annual level of present rate revenues for the test year ending November 30, 2021, with rates to become effective for service rendered on and after August 24, 2021

The Company represented that the rate increase proposed in the petition is required to enable the Company to maintain a satisfactory credit position; to preserve its financial integrity; to permit proper maintenance and improvement of utility facilities required to furnish safe, adequate and proper service to its customers; and to earn a reasonable return upon the fair value of its property used and useful in the public service.

On August 5, 2021, the Board transmitted this matter to the Office of Administrative Law for hearing and initial disposition as a contested case and was assigned to Administrative Law Judge Jacob S. Gertsman. On August 18, 2021, the Board entered a Suspension Order suspending the proposed rate increase until December 18, 2021.

After review, Staff recommended that the Board issue a further Order suspending the rates until April 18, 2022.

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

C. Docket No. WT21091110 – In the Matter of the Petition of Aqua New Jersey, Inc. for Approval of Changes in its Tariffs for Water and Wastewater Service Pursuant to N.J.A.C. 14:1-5.11.

BACKGROUND: On September 2, 2021 Aqua New Jersey Inc. (Aqua or Company) filed a petition with the Board for the authority to add certain provisions to its existing tariffs for water and wastewater service. Aqua is engaged in the business of collecting, treating and distributing water for retail and wholesale customers and wastewater service,

According to the petition, Aqua reviewed its tariffs and determined that its present tariff language addressing matters of liability is not adequate to meet current industry challenges.

On October 8, 2021, the New Jersey Division of Rate Counsel (Rate Counsel) filed comments stating that the new language is customary and routinely found in other water and wastewater tariffs. Rate Counsel added that the proposed tariff additions do not involve the provision of new tariffed services, will not impact the Company's revenues and will not result in cost increases to customers. Therefore, Rate Counsel had no objection to the Board granting the Company's request."

After review, Staff recommended that the Board adopt the proposed tariff revisions.

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

D. Docket Nos. BPU WR21070979 and OAL PUC 06235-21 – In the Matter of the Petition of Gordon's Corner Water Company for an Increase in Rates and Charges for Water Service.

BACKGROUND: On July 9, 2021, Gordon's Corner Water Company (Company) filed a petition with the Board for the authority to increase its base tariff rates and charges for water service amounting to approximately \$2,292,237.00 or 18.4%. The increase in rates is proposed to become effective on August 15, 2021.

The increase in rates is proposed to become effective on August 15, 2021. The Company also indicated in the petition that it intends to implement the proposed rates on April 15, 2022, on an interim basis pursuant to law, applicable Board regulations, and only if the Board has suspended the effective date of the new rates but not finally determined a new just and reasonable rate prior to that date.

By Order dated, September 18, 2021, the Board suspended the proposed rate increase until December 15, 2021, pending further action in this matter. This matter was transmitted to the Office of Administrative Law for hearings as a contested case and was assigned to Administrative Law Judge Tricia Caliguire for consideration and hearing.

After review, Staff recommended that the Board issue an Order further suspending the rates until April 15, 2022.

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 the October 6, 2021 Agenda Minutes.

BACKGROUND: Staff presented the October 6, 2021 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

- A. Docket Nos. EO21111219, EE21091123L and GE21091122L – In the Matter of the Alleged Failure of Titan Gas, LLC d/b/a CleanSky Energy 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.**

Electric Power and/or Natural Gas Supplier Initial Licenses

EE21091123L	Titan Gas, LLC	I – EGSL
GE21091122L	d/b/a CleanSky Energy	

Alice Bator, Director, Division of Audits, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved potential violations under the Electric Discount and Energy Competition Act (the Regulations) by Titan Gas, LLC d/b/a CleanSky Energy (CleanSky Energy), which has been operating as an electric power and natural gas supplier to provide services to residential and commercial customers in New Jersey.

As a result of correspondence and telephone conversations between Staff and CleanSky Energy, CleanSky Energy submitted an Offer of Settlement (Offer) regarding its alleged violations. In the Offer of Settlement, CleanSky Energy made a monetary offer in the amount of \$10,000.00 in order to resolve all issues concerning the violations alleged by Staff.

Staff recommended that the Board issue an order accepting the Offer of Settlement of \$10,000.00 as it represents a reasonable settlement of potential violations with the following conditions:

- 1) CleanSky Energy will pay to the State of New Jersey the sum of \$10,000.00 in full and final settlement to the Board in order to resolve this matter regarding the inadvertent retail electric power and gas supplier licenses lapse.
- 2) The execution of this Offer of Settlement shall neither be deemed an admission by CleanSky Energy of any violation of the Act, the Regulations, or any Board Order, nor a determination by the Board or Staff that a violation has occurred.

Staff recommended that the Board accept CleanSky Energy's Offer of Settlement.

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

Staff also recommended that the Board approve CleanSky Energy's initial application.

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

There were no items in this category.

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

There were no items in this category.

5. WATER

There were no items in this category.

6. RELIABILITY AND SECURITY

A. Docket No. EW20070482 – In the Matter of the Verified Petition of Jersey Central Power & Light Company Seeking a Temporary Waiver of the Requirements of N.J.A.C.14:5-4.2 and the Company's Meter Sampling Plan, Pursuant to N.J.A.C. 14:1-1.2.

JB Cuartas, CEM, Director, Reliability and Security Division, presented this matter.

BACKGROUND AND DISCUSSION: N.J.A.C. 14:5-4.2 Periodic Testing of Electric Meters, requires electric meters to be tested on different intervals depending on kilowatt rating or by a variable interval or statistical sampling technique approved by the Board. A statistical sampling plan based on American National Standards Institute Z1.9 was approved by the Board on March 29, 2019. The new sampling plan took effect on January 1, 2020.

On February 19, 2020, the Board issued an Order regarding the Petition of Rockland Electric Company for Approval of an Advanced Metering Program; and for Other Relief,

(hereinafter, AMI Order) lifting the previously imposed moratorium on the filing of pre-approval for advanced metering infrastructure (AMI) programs and requiring each utility to “file petitions for AMI implementation, or update previously filed petitions for AMI implementation with the Board.”

On July 13, 2020, Jersey Central Power and Light (JCP&L) filed a petition with the Board requesting a waiver of its meter testing program, followed by its AMI plan, filed on August 27, 2020.

On August 30, 2020, Board staff requested additional data.

On September 29, 2020, the New Jersey Division of Rate Counsel (Rate Counsel) requested additional data, followed by an additional request on November 24, 2020.

Board Staff and Rate Counsel reviewed JCP&L’s responses to discovery requests and the parties discussed terms during several settlement conferences, and executed a Stipulation of Settlement (Stipulation). The Stipulation contains mutual balancing and is in the public interest.

Staff recommended that the Board accept the terms and conditions of the Stipulation.

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

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QO21101158 – In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$500,000.00 – Verizon New Jersey, Inc.

Dustin Wang, Program Specialist Trainee, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved the Board considering Staff’s recommendation to award over \$500,000.00 incentive to Verizon New Jersey Inc. (Company) for lighting replacement under the Large Energy Users Program.

On August 18, 2020, Company submitted an application under the Fiscal Year 2020 (FY20) Large Energy Users Program pursuant to the Energy Efficiency and Renewable

Energy Program Plan Filing for FY20 dated July 29, 2020. The applicant requested a total financial incentive of \$679,282.53 for a project that will cost \$1,354,783.80. The project is located at 18 of the Company's telecommunication facilities throughout New Jersey and they include:

- 13 Brainerd Street, Mount Holly
- 15 East Maple Avenue, Merchantville
- 2 West 29th Street, Bayonne
- 201 Centennial Avenue, Piscataway
- 23 Home News Row, New Brunswick
- 2360 Nottingham Way, Mercerville
- 239 Nassau Street, Princeton
- 243 East State Street, Trenton
- 318 Cranbury Road, East Brunswick
- 32 Maple Place, Keyport
- 35 Broadway, Laurel Springs
- 35 South Haddon Avenue, Haddonfield
- 420 Park Avenue, Plainfield
- 5 North Maple Avenue, Marlton
- 505 Main Street, Metuchen
- 575 Shrewsbury Avenue, Shrewsbury
- 600 Horizon Drive, Robbinsville
- 90 West Milton Avenue, Rahway

The Company will replace 12,515 existing fluorescent, metal halide, and CFL fixtures with new light-emitting diode (LED) fixtures in these telecommunication facility buildings. The new fixtures have a lower wattage than the existing fixtures. The project is anticipated to generate 2,058,431 kWh of electricity annually and reduce peak demand by 399.37 kW per year. The proposed project will have an estimated annual energy cost savings of \$186,635.99, as well as operational and maintenance savings of \$132,627.20.

The payback period without incentives is 7.26 years; when factoring in the incentives, the payback period is reduced to 3.62 years.

Staff recommended approval of the application for the total estimated incentive amount of \$679,282.53 for Verizon New Jersey Inc. and issuance of a standard commitment letter to the applicant, setting forth the terms and conditions of this commitment.

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

Scott Hunter, Manager, Division of Clean Energy, presented these matters.

B. Docket No. QO21060890 – In the Matter of the Petition for Assignment of “Preferred” TREC Factor for Two Pilot Dual-Use Solar Projects Pursuant to the Board’s Transition Incentive Order – Washington Solar Farm, LLC and Quakertown Solar Farm, LLC.

BACKGROUND AND DISCUSSION: This matter involved a petition by Washington Solar Farm LLC and Quakertown Solar Farm LLC (collectively, Petitioners) for eligibility to generate Transition Renewable Energy Certificates (TRECs) on two proposed solar farms in Franklin and Washington Townships (Projects). The Petitioners proposed a pilot program for dual use, agrivoltaic systems that would consist of two proposed photovoltaic systems each expanding upon an existing energized photovoltaic system.

On June 4, 2021, the Petitioners filed the instant petition with the Board, which proposed pilot program would consist of implementing the Projects as grid supply photovoltaic systems developed with and operated over existing farming operations on a long-term basis. The Washington Solar Farm LLC Project is described as capable of generating 10 MW Alternating Current (AC) and the Quakertown Solar Farm LLC Project as capable of generating 8.8 MWs AC. The Petitioners asked the Board to find that the Projects constitute an innovative technology as contemplated by the January 2020 Order and to approve the Projects to receive a TREC factor of 1.0.

The Petitioners argued that dual-use agrivoltaics would play an important role in New Jersey’s solar future. In support of this contention, the Petitioners presented a number of articles and studies on the design and use of agrivoltaics which the Petitioners believe have established a positive relationship between the use of solar panels and farming. The Petitioners claimed that a majority of present-day authors, including an office in the US Department of Energy, have concluded that competition between renewable energy and food production is not a zero-sum game.

The petition lists a number of benefits from agrivoltaics, including among others steady revenues for farmers; the maintenance of land in agricultural use that might otherwise be lost to development; reduced need for irrigation and mitigation of losses in dry years; and increased ground cover resulting in lowered erosion and sediment in surface waters. According to the Petitioners, solar panel installation is minimally invasive and the Projects will be fully decommissioned and returned to the conventional agricultural use at the end of their useful lives.

In addition, the Petitioners contended that the Projects proposed in the petition are particularly suited for an individual pilot program, since they have already received most of the necessary municipal land use approvals and have the support of the municipalities in which they are located. The Petitioners also stated that both sites have already been heavily impacted by solar development and are not being used as farmland. Once approved by the Board, the Petitioners projected that the projects could be developed before the end of 2021.

On June 15, 2021, the International Brotherhood of Electrical Workers (IBEW) filed a letter in support of the petition, stating that the Projects would have a multitude of benefits for the surrounding area and would create hundreds of jobs for IBEW workers.

On October 19, 2021, a firm representing the Petitioners filed a letter arguing that the passage of the Dual Use Act should have no effect on the petition because it had been filed prior to the new legislation and satisfied “the law in effect at the time” (October 19, 2021 Letter). The October 19 Letter clarifies that the “law” to which it refers is the above-cited provision in the January 2020 Order which allows new or innovative solar technologies to file a petition requesting a specific TREC factorization level. In addition, the October 19, 2021 Letter references a prior appeal regarding the Projects which was withdrawn in April 2020 on the understanding that Board Staff (Staff) would engage in discussions regarding alternative solar development plans with counsel’s client.

October 19, 2021 Letter alleges that every proposal made to Staff over the 18 months since has been rejected and requests oral argument, stating that it is necessary to fully inform the Board of this history.

Staff believed that approval of the Projects as a separate pilot program was premature and inconsistent with the statutory Dual-Use Pilot. Among other mandates, the Dual Use Act tasks the Board, in consultation with the Secretary of Agriculture, with developing rules and regulations to establish and operate the Dual-Use Pilot program. The Dual Use Act also requires the Board to consult with the Secretary of Agriculture in reviewing each application, giving consideration to statutory selection criteria.

The Board’s Dual-Use Pilot rulemaking will involve development of robust metrics and requirements for projects seeking to participate in the Dual-Use Pilot program, that are expected to include metrics regarding agricultural or horticultural production, remedies if those agricultural or horticultural targets are not met, requirements to establish baseline agricultural or horticultural production, measurement and verification methods, and other programmatic requirements that cannot be replicated or produced for a single project. The Petitioners maintained that solar panel installation is minimally invasive and that the farmland on which their projects would be installed could be returned to agricultural use at the end of the solar panels’ useful lives. Staff did not disagree with this contention but notes that it is another facet of agrivoltaics that will be better and more fully explored in the context of the Dual-Use Pilot.

Further, the legislature required that the Board engage in a competitive pilot process that would allow for comparison and evaluation of projects. This type of competitive process ensures that New Jersey ratepayers get the maximum benefit, in terms of environmental benefit, clean energy and agricultural production, and cost. The goals and benefits of establishing a robust dual-use pilot program simply cannot happen in the limited context of evaluating the Projects here, no matter how well intentioned. While Staff is sympathetic to the developer’s interest in pushing forward these particular projects, the intervening passage of a new law specifically creating a competitive program for developing dual-use solar projects renders their prior application requesting the board create a pilot program duplicative and moot. However, these developers would appear well-situated to compete in the forthcoming new Dual-Use Pilot program.

Staff noted that it engaged in all discussions with the Petitioners' principal in good faith. However, Staff believed that failure to reach a compromise solution acceptable to all parties did not indicate a lack of good faith. Therefore, Staff recommended that the Board deny the request for oral argument and deny the petition.¹

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. QO21071021 – In the Matter of the Petition of DSM Nutritional Products to Direct JCP&L to Provide Net Metering Credit for Existing On-Site Solar Generation Facility.

BACKGROUND AND DISCUSSION: This matter involved Motions for Intervention in the petition of DSM Nutritional Products, LLC (DSM) for Net Metering Treatment of its installed solar electric generation facility as well as designate a presiding commissioner for the matter.

On July 29, 2021, DSM filed a petition requesting that the Board direct Jersey Central Power & Light Company (JCP&L or Company) to net meter the electricity produced by an on-site solar facility owned by DSM and to provide DSM with a retail credit on its electric bill for the energy produced by the solar facility since the date it commenced operation. In the petition, DSM stated that JCP&L refused to provide net metering treatment because of the existence of a combined heat and power (CHP) cogeneration facility also located behind DSM's meter, and represented that DSM exhausted all informal means of resolving the matter

On September 27, 2021, JCP&L filed a motion to intervene. JCP&L argued that DSM's petition and the relief sought therein would have a direct impact on JCP&L's operations, finances and customers. Specifically, the Company maintained that whether the Facility qualifies for net metering will impact not only the Company's treatment of the DSM account but more broadly how JCP&L treats other similarly situated customers with both renewable and non-renewable generation sources behind the meter. Further, the Company asserted that as the electric utility that provides distribution service to DSM and that is interconnected with the subject solar installation, its interest in this proceeding is clearly different from that of any other party and its intervention will add measurably and constructively to the proceeding.

On October 6, 2021, Bloom Energy (Bloom) filed a motion to intervene in this matter. Bloom argued that it will be substantially, specifically, and directly affected by the outcome

¹The Board's Order in this docket states more clearly than did Staff's presentation that the Petitioners' proposed pilot lacked sufficiently rigorous metrics and criteria to satisfy the Board independent of the fact that the petition also became duplicative after the Legislature acted to establish a larger Dual-Use Pilot.

of this proceeding because its customers are interested in co-locating fuel cells with solar projects behind the meter and, like DSM, wish to receive net meter credits for their solar generation. According to Bloom, the Board's decision in this matter could adversely affect the competitive market for Bloom's fuel cells, because even a decision on the specific

facts of the petition under review might set precedent for co-location of solar with other non-renewable resources such as fuel cells. Bloom asserted that because it is a fuel cell manufacturer, no other party can adequately represent its interests and that its unique perspective would measurably and constructively advance the proceeding. At the same time, Bloom maintained that its involvement would not unduly broaden the issues or create confusion because it has technical knowledge regarding allocating net metering credits in a mixed generation scenario that would be helpful to the Board in resolving the issues in this petition.

On October 28, 2021, the New Jersey Division of Rate Counsel filed its response to both motions, supporting JCP&L's motion and opposing that of Bloom.

Staff recommended that the Board retain this matter for hearing and also recommended that the Board designate President Joseph Fiordaliso as the Presiding Officer, with authority to rule on all motions that may arise during the pendency of this proceeding, as well as establish and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.

Staff further recommended that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by January 3, 2022. Any party wishing to file a motion for admission of counsel, *pro hac vice*, should do so concurrently with any motion to intervene or participate.

Staff also found that as the Petitioner's electric distribution company, JCP&L's interests are unique and significant with regard to any obligation to net meter the solar generation of the DSM facility and how the company will treat other similarly situated customers and, thus, recommended the Board to grant JCP&L's intervention status.

Staff found that Bloom had not made a showing that its interest in this matter warrants granting its motion to intervene given the need for prompt and expeditious administrative proceedings and, accordingly, recommended the Board to deny Bloom's motion for intervention.

Finally, Staff found that Bloom has an interest in this matter and may add constructively to the case as a participant without causing undue delay or confusion as a participant.

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

A. Docket No. TO21111233 – In the Matter of the Broadband Access Study Commission (P.L. 2021, c. 161), Staff Recommendation to Issue a Request for Responses to Provide Broadband Access Study Commission Needs – Executive Session.

Harold Bond, Chief Engineering and Rates, Office of Cable Television and Telecommunications, presented this matter.

BACKGROUND AND DISCUSSION: This matter was initially discussed in Executive Session pursuant to the attorney/client privilege and contract negotiation exceptions to the Open Public Meetings Act. This matter involved outlining the steps Staff has taken to move closer to fulfilling the goals of the Broadband Access Study Commission and bringing broadband to all residents of the State regardless of location or ability to afford. Staff recommended that the Board approve the release of the Request for Proposal by the Office of the Chief of Staff.

Pursuant to P.L. 2021, c.161, the President of the Board of Public Utilities has been designated as the Chair of the Broadband Access Study Commission.

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

EXECUTIVE SESSION

After appropriate motion, the following matter, which involved pending litigation and/or attorney-client privilege, was discussed in Executive Session.

9. MISCELLANEOUS

A. Docket No. TO21111233 – In the Matter of the Broadband Access Study Commission (P.L. 2021, c. 161), Staff Recommendation to Issue a Request for Responses to Provide Broadband Access Study Commission Needs.

The substance of this discussion shall remain confidential except to the extent that making the discussion public is not inconsistent with law.

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

Date: January 12, 2022