



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 January 12, 2022, via online @ <https://youtu.be/2oRzSoTwpay>

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 Chivukula did not participate.

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 January 26, 2022 at 10:00 a.m. via livestream on YouTube.

CONSENT AGENDA

I. AUDITS

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

EE20030198L	Berkshire Energy Partners, LLC	R – EA
EE21101180L	Power Management Co., LLC d/b/a PMC Lightsavers, LLC	R – EA
EE21081062L	RealPage Utility Management, Inc.	R – EA
EE21060887L GE21060888L	Priority Power Management, LLC	R – EA/PA

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 (TPSs) with a license expiring prior to July 9, 2019 were still required to submit the previous renewal application form. Any TPS 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 of 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:

- Berkshire Energy Partners, LLC
- Power Management Co. d/b/a PMC Lightsavers, LLC
- RealPage Utility Management, Inc.
- Priority Power Management, LLC

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

II. ENERGY

There were no items in this category.

III. CABLE TELEVISION

A. Docket No. CE20020154 – 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 City of Camden, County of Camden, State of New Jersey.

BACKGROUND: This matter involve Comcast of Garden State, L.P. (Comcast) seeking Board approval for the Automatic Renewal of its Certificate of Approval to provide cable television service to the City of Camden (City), County of Camden for a ten year term.

On February 26, 2020, Comcast filed a petition with the Board for an Automatic Renewal Certificate of Approval for the City based on the automatic renewal provision.

The petition is based on the City's ordinance granting renewal municipal consent to Comcast, which was adopted September 14, 2006, and subsequently amended on January 11, 2007. The City's ordinance granted a term of 15 years with an automatic renewal term of 10 years. The initial term expired on October 12, 2019.

After review, Staff recommended approval of the proposed Automatic Renewal Certificate of Approval. This Certificate shall expire on October 12, 2029.

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

IV. TELECOMMUNICATIONS

A. Docket No. TM21111231 – In the Matter of Verified Joint Petition of GTT Communications, Inc.; GTT Americas, LLC; and GC Pivotal, LLC d/b/a Global Capacity for Grant of Authority to Transfer Indirect Control of GC Pivotal, LLC d/b/a Global Capacity.

BACKGROUND: On November 19, 2021, GC Pivotal, LLC d/b/a Global Capacity (GC Pivotal), together with GTT Communications, Inc. and GTT Americas, LLC (collectively, Petitioners), submitted a Petition to the Board requesting approval of a transfer of indirect control of GC Pivotal as part of a Chapter 11 prepackage plan of reorganization (Restructuring) filed with the Bankruptcy Court on October 31, 2021.

Following consummation of the Restructuring, GC Pivotal will continue to provide competitive services to existing customers in New Jersey at the same rates, terms, and conditions as currently are provided.

By letter dated December 14, 2021, the New Jersey Division of Rate Counsel submitted comments stating that it did not oppose the Board approval.

Having reviewed the petition and supporting documents, Staff did not find any reason to believe that there will be an adverse impact on rates, competition in New Jersey, the employees of the Petitioners, or on the provision of safe, adequate and proper service to New Jersey consumers. Moreover, a positive benefit may be expected from the strengthening of the Petitioners competitive posture in the telecommunications market.

Staff recommended that the Petitioners be allowed to proceed with the transaction and related financing.

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

B. Docket No. TF21101190 – In the Matter of the Verified Joint Petition of PEG Bandwidth NJ, LLC and Uniti National, LLC for Approval to Participate in Certain Financing Arrangements.

BACKGROUND: On October 22, 2021, PEG Bandwidth NJ, LLC (PEG-NJ) and Uniti National LLC (Uniti) (collectively, Petitioners) submitted a Petition to the Board requesting approval for PEG-NJ and Uniti to participate in certain financing arrangements of its corporate parents and affiliates.

The Petitioners sought approval to be guarantors of certain financing arrangements of their corporate parent and affiliates. Specifically, Uniti Group's subsidiaries Uniti Group LP, Uniti Fiber Holdings Inc., Uniti Group Finance 2019 Inc., and CSL Capital, LLC (together, the Issuers) have completed an offering of \$700 million aggregate principal amount 6.00% senior notes due 2030 (the Financing Arrangements). The Issuers used the net proceeds from Financing Arrangements to fund the redemption in full of the outstanding 7.125% senior notes due 2024, including related premiums, fees, and expenses in connection with the foregoing. The Issuers will use any remaining net proceeds to prepay settlement obligations under the settlement agreement Uniti entered into with Windstream Holdings, Inc.

By letter dated December 17, 2021, the New Jersey Division of Rate Counsel stated that it had no objection to the Board's approval of this petition.

Having reviewed 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, Staff recommended approval of this petition, subject to certain conditions which are set forth in the draft Board Order.

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

V. WATER

A. Docket Nos. BPU WC20070488 and OAL PUC 09146-20 – In the Matter of Kimberly A. Ratai, Petitioner v. Middlesex Water Company, Respondent – Request for Extension.

BACKGROUND: The Initial Decision of the Administrative Law Judge was received by the Board on December 9, 2021; therefore, the 45-day statutory period for review and the issuing of a final decision will expire on January 23, 2022. Prior to that date, the Board requests an additional 45-day extension of time for issuing the final decision in order to adequately review the record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, Staff recommended that the time limit for the Board to render a Final Decision be extended until March 9, 2022.

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

B. Docket No. WF21091134 – In the Matter of the Petition of Village Utility, LLC for Nunc Pro Tunc Approval for Entry into \$2,410,000.00 Principal Amount of Debt with First Bank, Grant of Mortgage Interest, Security, and Other Appropriate Relief.

BACKGROUND: On September 15, 2021, Village Utility, LLC (Petitioner) filed a petition with the Board seeking *nunc pro tunc* approval of certain financing arrangements. The Petitioner is a wastewater public utility providing service to a mixed-use development, the North Village at Sparta in the Township of Sparta (Township). There is no other public sewer service inside the Petitioner's franchise area, and no such service is offered by the Township in that area.

On March 2, 2018, the Petitioner entered into a Loan Agreement with First Bank, Hamilton, New Jersey for a loan totaling \$2,410,000.00. The Construction Loan was necessary for the Petitioner to acquire property for and to finance a portion of the construction costs of a wastewater collection and treatment facility (Plant) servicing the needs of the citizens of North Village. The Plant became operational and was in service as of July 19, 2019. As part of the Construction Loan, the Petitioner granted mortgage and security interests to First Bank.

By letter dated December 2, 2021, the New Jersey Division of Rate Counsel stated that it did not object to approval of the petition, 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 the Petitioner's request, subject to certain conditions which are set forth in the Board Order.

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

C. Docket No. WF18020185 – In the Matter of the Application of Middlesex Water Company for Authority to Borrow up to \$57.0 Million and to Issue Evidences of Indebtedness Pursuant to the New Jersey Water Infrastructure Bank Financing Program.

BACKGROUND: By Order dated April 25, 2018, the Board authorized Middlesex Water Company (MWC) to enter into a loan agreement with the New Jersey Infrastructure Bank to borrow up to \$57 million to help fund its capital construction program. The authority for that loan agreement was set to expire on December 31, 2021.

By letter dated December 14, 2021, MWC requested an extension of the December 31, 2021 to a new date of June 30, 2022.

By letter dated December 15, 2021, the New Jersey Division of Rate Counsel indicated that it did not object to the approval of this matter.

After review of the information submitted by MWC, 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 the Petitioner's request.

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 December 1, 2021 Agenda Minutes.

BACKGROUND: Staff presented the regular agenda meeting of December 1, 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 Gordon	Aye

AGENDA

1. AUDITS

There were no items in this category.

2. ENERGY

A. Docket No. ER21121246 – In the Matter of the Provision of Basic Generation Service, the Compliance Tariff Filing Reflecting Changes to Schedule 12 Charges in PJM Open Access Transmission Tariff – December 10, 2021 Filing.

Ryan Moran, Rate Analyst, Division of Energy, presented this matter.

BACKGROUND AND DISCUSSION: On December 10, 2021, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric & Gas Company (PSE&G) and Rockland Electric Company (collectively, the EDCs) filed a joint petition with the Board requesting recovery of Federal Energy Regulatory Commission (FERC) approved changes in firm transmission service related charges.

The Transmission Enhancement Charges (TECs) were implemented to compensate transmission owners for the annual transmission revenue requirements for “Required Transmission Enhancements” that are requested by PJM for reliability or economic purposes. PJM recovers TECs through an additional transmission charge in the transmission zones assigned cost responsibility for Required Transmission Enhancement projects.

On October 15, 2020, PSE&G filed its Formula Rate Annual Update for 2021 that set forth PSE&G’s annual transmission revenue requirement, calculated in accordance with its Formula Rate for network transmission service under the PJM Open Access Transmission Tariff (OATT) for the period commencing January 1, 2021 through December 31, 2021 (2021 Formula Rate Update).

By Order dated January 27, 2021, the Board approved the changes to the Basic Generation Service (BGS)-Residential and Small Commercial Pricing (RSCP) and BGS-Commercial and Industrial Energy Pricing (CIEP) rates resulting from FERC-approved changes to the TECs and the Network Integration Transmission Service Rate (NITS), effective February 1, 2021.

On July 14, 2021, PSE&G, the Board and the New Jersey Division of Rate Counsel reached a settlement that required PSE&G to modify its 2021 Formula Rate Update with FERC. The settlement modified PSE&G’s transmission formula rate template and transmission implementation protocols. The settlement resulted in a reduction in PSE&G’s return on equity, lowering it in the PJM tariff from 11.18% to 9.90%. FERC approved the settlement in an October 1, 2021 Order, and directed PSE&G to make a compliance filing with the revised tariff records within 30 days of that Order.

In the December 2021 Petition, the EDCs proposed tariff changes that reflect changes to the BGS-RSCP and BGS-CIEP rates to customers resulting from changes in the PJM

OATT made in response to the 2021 Formula Rate Update filed by PSE&G and the October 2021 Compliance Filing.

The EDCs began to pay the decreased transmission charges in December 2021 and will receive retroactive refunds back to August 1, 2021 in January 2022. As a result, the EDCs requested a waiver of the 30-day filing requirement. The EDCs are also seeking authority from the Board to credit BGS customers for the lower transmission charges over a 12-month period beginning in January 2022. The EDCs requested Board approval to implement the revised BGS-RSCP and BGS-CIEP tariff rates effective January 1, 2022.

Staff recommended the following:

1. Board approval of the changes to the BGS-RSCP and BGS-CIEP transmission rates requested by each EDC for its transmission charges resulting from the FERC-approved changes to the TECs and NITS rate in the December 2021 Petition, effective February 1, 2022;
2. Board authorization of the EDCs' request to credit BGS customers for lower 2021 transmission charges associated with the December 2021 Petition over a 12 month period depending on the specific EDC rate design;
3. The Board waive the 30-day filing requirement as requested by the EDCs in the December 2021 Petition; and
4. The Board direct the EDCs to file tariffs and rates consistent with the Board's findings by February 1, 2022.

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 Gordon	Aye

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

There were no items in this category.

5. **WATER**

A. Docket No. WT21101160 – In the Matter of the Request by New Jersey American Water Company for a Temporary Waiver of Optional Industrial Wholesale Tariff Condition, Rate Schedule F, Due to Impact of COVID on Water Consumption.

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

BACKGROUND AND DISCUSSION: On October 8, 2021, New Jersey American Water Company, Inc. (NJAW) filed a letter requesting that the Board grant a temporary waiver of a condition of the Company's Optional Industrial Wholesale (OIW) Rate for two specific OIW customers, Rutgers University (Rutgers) and Princeton University (Princeton). NJAW indicated that the requested waiver was due to the unanticipated impact of the COVID-19 public health emergency on both universities' water consumption.

NJAW's OIW service is available to customers using 9.350 million or more gallons of water per month and having load factors not in excess of 1.2 times their monthly consumption on an average daily basis. Customers who fail to meet the tariff's specific usage and load factor requirements for three consecutive months, between April 1 and September 30, are to be removed from the OIW Rate Schedule and will be billed under the General Metered Service Rate Schedule (GMS) A-1. Customers who are removed from the OIW Rate Schedule will be billed under the GMS rates for a minimum of 12 months and will only be eligible for OIW rates if, after 12 months, their monthly consumption and load factors once again meet the tariff's requirements for three consecutive months between April 1 and September 30.

In response to the COVID-19 pandemic, on March 9, 2020, Governor Murphy signed Executive Order No. 103 (EO 103) declaring a Public Health Emergency and State of Emergency. In response to the EO 103 Rutgers and Princeton announced that all classes would go completely online after spring break 2020 in response to the increasing number of COVID cases throughout the State.

The shift to online learning reduced the consumption levels of both Princeton and Rutgers. This had an unanticipated impact on the load factor [1.2 times the last (rolling) 12 months average monthly consumption] used to determine the universities' compliance with the Rate Schedule F average monthly consumption condition during the April through September 2021 period. During the billing months for June, July and August of 2021, both universities exceeded their load factor for three consecutive months. Therefore, absent a waiver of this condition, the Company would be required to eliminate both universities from Rate Schedule F and bill them at Rate Schedule A-1, which would result in an 82% rate increase per month over the next 12 months before these customers could potentially become eligible for Rate Schedule F rate.

Since Princeton's and Rutgers' reduction in their 12 month (rolling) average monthly consumption and the increase in their load factors were due to both universities' response to the declared COVID-19 Public Health Emergency, NJAWC respectfully requested a temporary waiver of the Rate Schedule F condition for the universities to the extent that it would eliminate these customers from Rate Schedule F due to their current consumption exceeding their load factors during the period of April 1, 2021 through September 30, 2021.

By letter dated November 30, 2021, the New Jersey Division of Rate Counsel (Rate Counsel) stated that it did not object to the Company's request for a waiver of the requirements of Rate Schedule F for Princeton and Rutgers. The Rate Counsel further stated that it reviewed the Company's letter, its supporting documentation and responses to discovery, and that it agreed that both universities' failure to meet the OIW's tariff's requirements were a direct result of their response to the COVID-19 pandemic. The Rate Counsel further stated that it agreed that this was a legitimate request for granting a waiver.

Staff recommended that the Board grant NJAW's request for a temporary waiver of waiver of Company's OIW Rate Schedule F for Rutgers and Princeton.

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 Gordon	Aye

6. RELIABILITY AND SECURITY

There were no items in this category.

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QO2111230 – In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Energy Efficiency Incentives Exceeding \$500,000.00 – Newark Plaza Urban Renewal, LLC.

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

BACKGROUND AND DISCUSSION: This matter involved the Board considering Staff's recommendation for award of an over \$500,000.00 incentive to Newark Plaza Urban Renewal, LLC for the installation of energy efficiency measures under the Pay for Performance – New Construction Program.

Newark Urban Plaza Renewal, LLC submitted an application under the Pay for Performance - New Construction Program, requesting Board approval of a financial incentive of \$627,099.28 for the installation of energy conservation measures at Newark Plaza Tower.

This application would cover the installation of packaged terminal heat pumps in apartments and amenity spaces; energy recovery ventilation in hallways and bathroom exhaust; interior LED lighting; occupancy lighting controls throughout; ENERGY STAR washers, dryers, dishwashers, and refrigerators in apartments; improved wall insulation; high efficiency windows and glass doors; high efficiency condensing boilers and hot water heaters; low-flow shower and faucet fixtures in apartments; and high efficiency elevator motors.

Annually, this project would conserve 279,294 kWh of electricity and 4,263 MMBtu of natural gas beyond American Society of Heating, Refrigerating and Air-Conditioning Engineers 90.1-2013 standards. The proposed project has an estimated annual energy cost savings of \$66,194.00.

Staff recommended approval of the application for the total estimated incentive amount of the \$627,099.28 for Newark Plaza Urban Renewal LLC.

Staff also recommended the 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 Gordon	Aye

9. MISCELLANEOUS

A. Docket No. AX21070998 – In the Matter of the Proposed Readoption with Substantial Amendments to N.J.A.C. 14:3, et seq., All Utilities.

Suzanne Patnaude, Esq., Legal Specialist, Counsel’s Office, presented this matter.

BACKGROUND AND DISCUSSION: This matter involved the Board considering a proposal recommending readoption of the Board’s rules governing All Utilities at N.J.A.C. 14:3, which are due to expire on February 11, 2022. The proposal includes stakeholder input submitted from the public and industry to address evolution and changes in the industry, as well as customer concerns that have occurred since the previous readoption.

Staff proposed to readopt, with substantial changes, the Board’s existing rules contained within the New Jersey Administrative Code, N.J.A.C. 14:3 et seq. “All Utilities”.

These rules provide basic requirements for all utilities regulated by the Board, including water, wastewater, electric, gas, and telephone utilities, in such areas as the construction of utility facilities, the discontinuance and restoration of service, utility billing, and meter testing.

N.J.A.C. 14:3 is necessary and appropriate in that the rules will help ensure that New Jersey utility customers will receive safe, adequate, and proper service at reasonable rates.

On September 23, 2021, Board Staff held a stakeholder meeting. The purpose of the meeting was to address possible amendments to N.J.A.C. 14:3, any issues, and their effect on the stakeholders. After the stakeholder meeting, the Board collected comments from the stakeholder community for a period of 30 days through October 21, 2021.

The Governor’s Office has reviewed and approved the proposed readoption.

Staff recommended that the Board approve the proposed readoption of this Chapter with substantial and technical changes, for submission to the Office of Administrative Law and publication in the New Jersey Register.

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 Gordon	Aye

B. Docket No. AX21091111 – In the Matter of the New Jersey Board of Public Utilities’ Utility Customer Bill of Rights.

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

BACKGROUND AND DISCUSSION: This matter involved the Board revisiting the Customer Bill of Rights to ensure all protections provided through recent legislation are reflected.

On February 3, 1986, a Utility Customer Bill of Rights was established by the Board outlining certain protections afforded to utility customers under the Board’s then current regulations (Bill of Rights). Thereafter, on September 14, 2021, the Bill of Rights was revised to incorporate various changes made to the Board’s regulations since the establishment of the original Bill of Rights in 1986 (Revised BOR). The Revised BOR also included consumer protections mandated by Governor Phil Murphy through various executive orders in response to the COVID-19 pandemic of 2020 Executive Order Protections). The Executive Order Protections were intended to be temporary and had an expiration date of December 31, 2021.

After the Revised BOR was issued by the Board, a clarifying order was issued on October 16, 2021 (Clarifying Order) incorporating certain language from temporary legislation signed by Governor Murphy on May 12, 2021. The Clarifying Order further required the utilities to provide the Board with a report evidencing compliance with the notice provisions set out in the various Orders related to the Bill of Rights.

The Board subsequently received requests for waivers from Mount Olive Villages Water Company and Mount Olive Villages Sewer Company (collectively referred to as Mount Olive Villages), Village Utility, LLC, Butler Electric, Montague Water Company and Montague Sewer Company (collectively referred to as Montague), and Shore Water Company seeking waivers of various notice requirements set out in the Clarifying Order. The Board addressed these waiver requests at its December 15, 2021 agenda meeting (December 15 Agenda) when it updated the Revised BOR, which removed Executive Order Protections that were set to expire (Updated BOR).

On December 21, 2021, the Governor signed legislation, L. 2021, c.317, extending the shutoff grace period for residential water, sewer, and municipal electric customers from December 31, 2021 to March 15, 2022. The legislation also extended the payment plan provisions of the Governor's Executive Order No. 246 (EO 246), requiring all utilities to offer a 12-month, no down payment, interest-free payment plan to residential customers prior to disconnecting service or imposing liens for non-payment of arrearages that accrued since the beginning of the Public Health Emergency. The legislation further required the Department of Community Affairs to establish a Winter Termination Program (WTP) for water, sewer, and electric municipal utilities customers. Additionally, the Board is now required to include water and sewer public utilities into its existing WTP, to take effect for the 2022-2023 winter season.

Staff recommended the Board revise the Updated BOR with a retroactive effective date of January 1, 2022, as follows:

1. You have the right to utility service if you are a qualified applicant.
2. You have the right to budget billing or payment plans if you are a gas or electric utility customer.
3. You are entitled to at least one deferred payment plan within a twelve-month period. The deferred payment agreement offered to you by the utility company must be for at least a minimum of 12 months with no money down, unless you request a shorter payback period. Your utility company may not require a reconnection fee or deposit as a condition of continuing service, and late charges, interest and liens for past due amounts are not permitted during the grace period. Any deferred payment plan offered by the utility company to you must comply with current law and regulations.
4. You have the right to apply for utility assistance programs which may include arrearage forgiveness. Learn more by calling your utility company or by calling 2-1-1. Information is also available online at www.nj211.org/utility-assistance-programs.
5. Any disconnected gas, electric, water, and sewer customer who can demonstrate that application has been made to one of the following assistance programs, as applicable, shall be reconnected by that gas, electric, water, and sewer company upon request in order to obtain available benefits: Universal Service Fund; Low Income Home Energy Assistance; Payment Assistance for Gas and Electric, and Low Income Household Water Assistance.

6. You have the right to have any complaint you make against your utility company handled promptly by that utility company.
7. You have the right to have your utility complaints and concerns investigated. Your service may not be terminated for non-payment of disputed charges during a BPU investigation.
8. You have the right to have your meter tested free of charge once a year by your utility company if you suspect it is not working properly. For a \$5 fee, the meter test will be conducted under the supervision of the staff of the Board.
9. You have the right to a written notice of termination from your utility company at least 10 days prior to the discontinuance of service.
10. If you are a participant in an energy assistance program or a gas, electric, water, and/or sewer customer having financial difficulties paying your bill, you can request the company enroll you in a budget plan based on your ability to pay. Provided you make good faith payments toward all reasonable bills for service, you have the right to gas and electric utilities service from November 15 to March 15 without fear of termination of such services if you are a participant under the Winter Termination Program. You have a right to water and sewer utility services through March 15, 2022.
11. After March 15, 2022, residential gas, electric, water, and sewer utilities are permitted to inform customers that they are subject to termination of service due to non-payment.
12. After March 15, 2022, residential gas, electric, water, and sewer utilities are permitted to disconnect service due to nonpayment provided, however, a disconnection may occur at any time if it is to prevent a risk to public health or safety.
13. You have the right to receive posted notice of any impending shutoff if you live in a multi-family dwelling. This notice must be posted in a common area and/or sent individually to occupants.
14. You have the right to have a "diversion of service" investigation if you suspect the level of consumption reflected in your utility bill is unexplainably high.
15. Service shall not be shut-off for non-payment of repair or merchandise charges. No notice threatening discontinuance based on these charges may be given.
16. You have the option of having a deposit refund applied to your account as a credit or having the deposit refunded by separate check.
17. A utility may not impose late fees, interest, or liens on residential customer accounts due to late payments.

18. Residential service may be shut-off, after proper notice, only on Monday through Thursday from 8:00 a.m. to 4:00 p.m. A utility may not shut-off residential service on Friday, Saturday, Sunday or a holiday or the day before a holiday, or if a valid medical emergency exists in your household.

19. You have the right to notification regarding any moratorium on rate increases.

Customers with questions may contact the Board at: 800-624-0241.

Staff further recommended the Board Order that all gas, electric, water and sewer, and telecommunications companies under its jurisdiction comply with the following:

1. Provide all current residential customers with a copy of the revised Updated BOR in the next billing cycle. Current residential customers who receive a printed version of their bills shall be provided with the revised Updated BOR in paper format on a monthly basis. Current residential customers who receive their bills electronically shall be provided with the revised Updated BOR electronically on a monthly basis. Regardless of which delivery method employed, all utility companies shall, on a monthly basis for 18 months after the termination of EO 103, provide the revised Updated BOR to their residential customers in a form and manner that would maximize receipt by the customers;
2. Provide all new customers with a copy of the revised Updated BOR upon initiation of service;
3. Pursuant to the May 2021 Legislation, an English and translated version of the revised Updated BOR is required where the primary language of 10 percent or more of the population within a municipality is a language other than English as set forth therein. The monthly printed format of the revised Updated BOR should also contain a translated version in said format, if required. For electronic billing residential customers, the monthly email should include a link to the translated version of the revised Updated BOR in addition to the required English language version of the revised Updated BOR;
4. In addition to providing the revised Updated BOR to the residential customer in an appropriate format as set out above, the revised Updated BOR must also be prominently displayed on the utility company's website, if applicable;
5. This notice requirement pertains to all gas, electric, water, and incumbent local exchange telephone public utilities within the jurisdiction of the Board;
6. The utility company shall report its compliance with the notice requirements set out in this order by February 11, 2022, detailing the method of distribution to customers, describing all changes made to billing and collections operations in compliance with the applicable laws, and providing the Board with a copy of the English version of the revised Updated BOR that was sent by the utility company to the residential customer; and

- 7. For those utilities required to provide a translated version of the revised Updated BOR in accordance with the May 2021 Legislation, a copy of the translated version shall be provided to the Board by February 11, 2022, along with the English version of the revised Updated BOR that was sent by the utility company to the residential customer.

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 Gordon **Aye**

LATE STARTER A

WATER

Docket Nos. BPU WO21060896 and OAL PUC 05575-2021S – In the Matter of the Town of Clinton, Petitioner v. Borough of Lebanon, Respondent.

Michael R. Beck, Deputy Attorney General, Division of Law, Presented this matter.

BACKGROUND AND DISCUSSION: This matter was filed with the Board on June 9, 2021, in order to resolve a dispute between Town of Clinton (Clinton) and Borough of Lebanon (Lebanon or Borough) regarding the cost allocation of road replacement attendant to the installation of new water mains in Lebanon by Clinton. Clinton operates a municipal water system and provides water to more than 1,250 customers residing outside of Clinton, hence it is subject to Board jurisdiction, pursuant to N.J.S.A. 40A:31-23(d) and (f), but not subject to the rate setting requirements of the Board, provided all customers are charged the same rates. Lebanon passed an ordinance on July 5, 2020 which provide for concrete road surfaces on its main street. Clinton finds the requirements in the ordinance unreasonable and a violation of the municipal consent that Lebanon provides to Clinton for the maintenance and replacement of water service under its streets. Lebanon filed its answer on June 24, 2021 and asserted that the Board does not have jurisdiction in this matter. This matter was transmitted to the Office of Administrative Law on June 29, 2021, for determination as a contested case and assigned to Administrative Law Judge (ALJ) Jacob Gertsman.

A status conference was conducted by ALJ Gertsman on August 12, 2021, after which Clinton filed a motion to establish jurisdiction and Lebanon filed a cross motion to dismiss for lack of jurisdiction. Clinton, Rate Counsel, and Staff filed briefs in support of the Board’s jurisdiction and Lebanon filed a brief seeking dismissal of the matter for lack of jurisdiction. On October 18, 2021, ALJ Gertsman conducted an additional status conference and concluded that he had jurisdiction. He memorialized his decision in a letter order, on October 19, 2021, in which he directed Clinton to file an amended petition, stating that Clinton is not seeking to overturn the Lebanon’s ordinance.

On October 22, 2021, Lebanon filed a motion for interlocutory review with the Board, pursuant to N.J.A.C. 1:1-14.10(a), claiming that the ALJ had erred in his determination the Board has jurisdiction, stating that Clinton is seeking to invalidate its ordinance, requiring concrete road replacement, rather than asphalt. Clinton filed its opposition to the Motion for Interlocutory Review on October 25, 2021, arguing that the Board has broad jurisdiction pursuant to N.J.S.A. 48:2-13 and 14, N.J.S.A. 40A:31-23(d)(1), and extensive case law.

On November 17, 2021, the Board issued an order denying the Motion for Interlocutory Review. Lebanon appealed the Board's Order on December 6, 2021 and Clinton filed its answer on December 16, 2021.


On January 4, 2022, the Appellate Division issued an Order on Motion of the Borough, appealing the November 17, 2021 Order of Board denying the Borough's motion for interlocutory review of ALJ Gertsman's October 19, 2021 Letter Order. By its Order, the Appellate Division remanded the matter to the Board to review the ALJ's jurisdictional determination. The Appellate Division also asked that the Board expedite its determination of the issue of jurisdiction.

Staff recommended that the Board approve a Secretary's letter seeking additional briefs from the parties, in order to comply with the Appellate Division's direction and move this matter forward. Following the receipt and review of the parties' briefs, Staff anticipated returning to the Board at the February 23, 2022 agenda regarding the issue of jurisdiction. At that time, if Board jurisdiction is affirmed, the matter will be remanded to ALJ Gertsman, for determination of the issues regarding road resurfacing and attendant cost recovery, in order for Clinton to effect replacement of the water mains serving Lebanon.

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 Gordon	Aye

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



AIDA CAMACHO-WELCH
SECRETARY

Date: February 23, 2022