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**Remarks of Stefanie A. Brand, Director, Division of Rate Counsel,
Regarding Issues Confronting Utilities' & Response to Power
Outages; Tropical Storm Isaias, Submitted to the Senate Law & Public
Safety Committee Meeting, October 19, 2020**

Good afternoon. My name is Stefanie Brand, and I am the Director of the Division of Rate Counsel. I would like to thank Chairwoman Greenstein and members of the committee for the opportunity to testify today on issues confronting the state's utilities and their response to power outages generally and Tropical Storm Isaias specifically.

As you are aware, the Division of Rate Counsel represents and protects the interest of all consumers -- residential customers, small business customers, small and large industrial customers, schools, libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities or businesses seek changes in their rates and/or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

I appreciate the opportunity to discuss this critical topic not only from a safety standpoint, but also a financial standpoint for the ratepayers who have paid and will continue to pay billions of dollars to strengthen utility infrastructure on an ongoing basis and after major storms such as Superstorm Sandy and the recent Tropical Storm Isaias. This is also an important topic as the state's ratepayers struggle to pay utility bills and other expenses during a crushing pandemic and economic crisis that has left many people with no jobs and increased reliance on electricity.

I would like to start by making clear that we will never be able to prevent all outages or ensure that all outages are resolved quickly. It is not feasible from a fiscal standpoint to underground all existing overhead wires or hire enough workers to do that and still maintain affordability of these essential services. That said, we certainly can and should do better. And we have to do better. Climate change is bringing us more severe and more frequent storms, and it certainly feels as though outages last much longer than they ever used to. We are more and more reliant on electricity and will be increasingly so as we tackle reducing our greenhouse gas emissions. We are only starting to get used to the fact that when our electricity goes out our phones go out. Imagine when an outage means not

only that we don't have lights and TV and phones, but also no ability to charge our cars, access transportation or even turn on the heat .

Today I am going to talk about a few things that we could do to improve resilience in the face of increasing storm activity and restore outages more quickly. The answer is not simply about spending money on the latest gadget or expensive capital improvements. It is about restoring accountability, transparency and a focus on reliability and day to day operating requirements.

Let's start with accountability. Remember that utilities, unlike competitive businesses, don't have the same pressures on them to make sure they provide good service. If a customer doesn't like the service they are getting from their utility, they cannot simply leave and obtain the service elsewhere. The consequences for providing bad service for them are hearings like this, maybe some bad press coverage, but we need the regulatory process to substitute for those competitive forces and create consequences for insufficient performance. After Hurricane Irene and Superstorm Sandy and other recent storms, the BPU issued a series of orders in an effort to do that, requiring the electric and gas utilities to undertake certain measures to improve our resilience and our ability to restore service after storms. The Board also invited utilities to file petitions

for programs that would increase our storm resilience. I have no reason to believe that the utilities failed to implement the required measures, but to my knowledge there has been no systematic study or follow-up review to determine whether those measures have helped, or whether other measures should be required. There has been follow up in the form of additional requirements based on lessons learned from later storms, but if a full “post-mortem” has been conducted, it has not be done through a public process where we can fully assess the benefits we obtained from the measures that utilities have undertaken with money collected from ratepayers.

We certainly do know that the utilities did file a number of petitions, including several through the Board’s Infrastructure Improvement Program (IIP) regulations that provide a very attractive cost recovery mechanism for utilities to do this type of work. Over the last decade or so, New Jersey ratepayers have spent billions of dollars –over \$6 billion to be specific (\$1.75 billion for electric, \$4.5 billion for gas) – on special programs to improve storm response and resilience. This money has been used to raise substations that previously flooded, install redundancy on certain parts of the system to reroute power in the event of an outage, make certain automation improvements on the utility’s distribution lines, and

replace vulnerable gas mains. Our office, as well as BPU staff, carefully check the work that is being done through these programs to make sure the utilities are spending the money prudently and consistent with the BPU's approval. However, once again, we have not seen a systematic review of the impact of this work, nor have we seen a careful evaluation of whether this is the work we need to be doing. Anecdotally, we can say some things have improved, and I think it's fair to say that if we had another flooding event like we had with Irene and Sandy, that there would be improvements. But we have not seen a comprehensive and systemic analysis of whether we are implementing the right measures and taking the right approach.

Admittedly, it is hard to really test these measures without a subsequent storm, but as we did see in Isaias – which was primarily a wind event – what may be very reasonable measures to take to combat floods, may do little to help in the face of severe winds. BPU President Fiordaliso did say at the August 12 Board Agenda Meeting that BPU staff was undertaking a review of utility responses to Isaias, and we look forward to learning the results of that review.

The accountability problem is most evident I believe in the BPU's reliability regulation, *N.J.A.C. 14:5-8.10*. The regulation relies on two

metrics that are used to measure reliability: the Customer Average Interruption Duration Index (CAIDI) and the System Average Interruption Frequency Index (SAIFI). The Board looks at a utility's performance under those indices for a five year period (recently updated to 2010-2014) and a utility is deemed to be in compliance if its performance level is at least as good as it had been over that five year period. This standard is extremely easy to meet for a few reasons. First, major storms are excluded from the data and the indices used to determine compliance. While that may make sense so that one storm does not skew the analysis, it means that we do not look at the issues surrounding storm resilience and restoration performance in assessing a utility's performance. Rate Counsel has urged the Board to establish a separate metric to assess the performance of a utility in storms, so that we can address the issues we are discussing today. While it may be appropriate to review storm performance separately from "blue sky" performance, it is not, we believe, appropriate to leave storm performance out altogether. Second, the way the regulation is set up if a utility's reliability performance was bad in the past – between 2010 and 2014 – then it is held to a lower standard than other utilities whose performance was better during that same period. The utility is deemed to have met its minimum reliability standard if its performance is no worse

than it was in 2010-2014 plus a standard deviation of 1.5. The regulation almost perpetuates poor performance, letting those who are mediocre stay mediocre. Finally, the consequences in the regulation for those who fail to meet the standards are weak. If a utility fails to meet the regulatory minimum, the regulation simply provides that “further review, analysis and corrective action are required.” There are no penalties specifically provided for, no time deadlines to achieve compliance, and no specific corrective actions mentioned. The regulation does allow the Board to set higher minimum requirements and the Board would likely be able to bring an enforcement action against a recalcitrant utility, but to my knowledge, that has not been done.

That leads to another area where I think we can do better: transparency. The BPU has in fact required a significant number of measures for utilities to follow in an effort to improve performance. Many of those measures involve recordkeeping and reporting that could provide valuable information that could be used to improve our resilience and reliability efforts. Unfortunately, much of the information is filed with the Board and never posted. Our office gets some but not all of the reports. While there might be some information that would require redaction because of, for example, critical energy infrastructure issues, most of the

information is public. However, in order to get it members of the public would have to file an OPRA request. I believe transparency is important and that when regulated entities know that the information they are reporting will be made public, they strive to make it look as good as possible. It is a motivator for compliance and improvement. The Board has greatly expanded its website and the amount of information that the public can access from it. Reports on storm response, resilience programs, and reliability should also be made accessible on the Board's website.

This brings me to the final and perhaps most important issue, and that is focus. We are in a period of great transformation in the energy sector. It is not surprising that the utilities and their investors want to be a major part of it. But we cannot forget that the most important thing utilities do is keep the lights on. There are petitions pending before the BPU in which the utilities are seeking to do all kinds of things that are not really their job. They seek permission to do things like building public charging stations for electric cars, replacing school buses, and electrifying New Jersey Transit's fleet of buses. We don't need a regulated monopoly to do those things when there are private companies that will do the job on a competitive basis. But we do need regulated monopolies to provide us with safe and adequate service. We need them to maintain their wires and

pipes and keep the system operating. We need the focus to be on the customer.

By way of example, I expect that the utilities will say that if they had Advanced Metering Infrastructure (AMI) that their response to Isaias would have been better. AMI meters are expensive but these more advanced meters, sometimes called “smart meters,” allow for two-way communications and other functionality that existing meters do not have. There may be some benefit to having AMI installed when it comes to storm recovery, but the meters run on electricity. So when the electricity goes out, so do the AMI Meters. We certainly have no problem with utilizing advanced technology, but the utilities want to install these meters in the most expensive way possible. They want to replace the existing meters all at once, leading to hundreds of millions of dollars in stranded costs from older, but still functional meters that ratepayers will have to pay. They also want “pre-approval” so their shareholders bear no risk. When you look at the benefits these meters bring and the costs of installing them in the way the utilities propose, the benefits simply do not justify the costs. But that’s the solution the utilities will propose first; because it maximizes their profits and minimizes their risks.

On the other hand, it is well-established that falling trees are the greatest source of outages during storms. Trees account for one-quarter to one-third of outages in a storm, with equipment failure accounting for another 20%. So why isn't enhanced tree trimming or equipment maintenance the first order of post-storm business for the utilities? Because for the most part these costs are considered Operations and Maintenance expenses, rather than capital costs. That means that while the utilities get paid for tree trimming, they do not earn the same level of profit as they would if they replaced everyone's meter. The focus is on Wall Street expectations and maximizing shareholder return rather than on your street and maintaining reliable service.

To their credit, the BPU has increased tree trimming requirements and issued enhance regulations after Superstorm Sandy. I have no reason to believe that the utilities aren't complying with those regulations. However, they do complain about an inability to access trees off of their right-of-way and other "obstacles" to effective vegetation management. What we have found is that when you suggest ways around those obstacles – such as asking homeowners if you can trim trees on their property that could fall on the right-of-way, you get a fairly high level of

cooperation. These simple common-sense fixes can go a long way to achieving improved reliability and resilience.

Our office has begun to ask in the context of rate cases or mergers that utilities improve their reliability performance. We have also sought and put into place monitors for some of the resilience and infrastructure improvement programs. We have gotten into place improvement plans that require the utility to meet regularly with Board Staff and Rate Counsel to come up with solutions that improve reliability. When the utility embraces the improvement plan and focuses on reliability, we have seen significant improvement. I believe that the accountability and transparency measures that I discussed earlier would help bring that much needed focus. This focus needs to be at the forefront of the utilities' everyday work. I understand that tree trimming is not exotic or cutting edge, but it is central to keeping the lights on and maintaining reliability. As we ask the utilities to assist in the transformation of our system, we must ensure that their focus remains on providing safe, adequate and proper utility service. It should be as important –if not more important- than maximizing shareholder profits.

I thank you for the opportunity to testify today, and once again applaud the committee for attempting to tackle this very important and complex issue. I am available to answer any questions you may have.