



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://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 October 28, 2020, via Teleconference: 1 312 626 6799 Webinar ID: 939 6273 9035 or watch online @ <https://youtu.be/kQRoZB4cHu4>

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

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

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

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

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

It was announced that the next regular Board Meeting would be held on November 18, 2020 at 10:00 a.m. via teleconference.

## CONSENT AGENDA

### I. AUDITS

#### A. Energy Agent and Private Aggregator Initial Registrations

EE20080549L GE20080550L	Energy CX, LLC	I – EA/PA
----------------------------	----------------	-----------

#### Energy Agent, Private Aggregator and/or Energy Consultant Renewal Registrations

EE20080525L	Insight Sourcing Group, LLC	R – EA
-------------	-----------------------------	--------

EE20080528L	Lava Energy, Inc.	R – EA
-------------	-------------------	--------

EE20080530L	Service King International Brokers, LLC d/b/a SKI Brokerage	R – EA
-------------	--	--------

EE20010106L GE20010107L	Pennell and Wiltberger, Inc. d/b/a PWI Engineering, Inc.	R – EA/PA
----------------------------	---	-----------

EE19091294L GE19091295L	Gotham Energy 360, LLC d/b/a Gotham 360	R – EA/PA/EC
----------------------------	--	--------------

#### Electric Power Supplier Initial License

EE20030217L	David Energy Supply, LLC	I – ESL
-------------	--------------------------	---------

**BACKGROUND:** The Board must register all energy agents, private aggregators, and consultants, and the Board must license all third party electric power suppliers and natural gas suppliers. On May 10, 2019, P.L. 2019, c. 100-101 was signed into law providing that third party electric power and natural gas supplier licenses issued by the Board may be renewed without expiring if certain conditions are met. An electric power supplier and/or natural gas supplier license shall not expire so long as the licensee pays to the Board a license renewal fee accompanied by an annual information update on a form prescribed by the Board. The renewal fee and annual information update form must be submitted within 30 days prior to the anniversary date of the last approved licensing application. P.L. 2019, c. 100-101 became operative 60 days following the date of enactment.

As such, any third party suppliers with a license expiring prior to July 9, 2019 were still required to submit the previous renewal application form. Any third party supplier renewal application that was filed prior to July 9, 2019 has been, and will continue to, be processed by Board Staff for approval or denial in accordance with N.J.A.C. 14:4-5.7. The anniversary date for companies with a pending application will be the date that the renewal application receives Board approval. An energy agent, private aggregator, or energy consultant registration shall be valid for one year from the date of issue. Annually thereafter, licensed electric power suppliers and natural gas suppliers, as well as energy agents, private aggregators, and energy consultants, are required to renew timely their licenses and registrations in order to continue to do business in New Jersey.

Staff recommended that the following applicant be issued initial registration as an energy agent and private aggregator for one year:

- Energy CX, LLC

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

- Insight Sourcing Group, LLC
- Lava Energy, Inc.
- Service King International Brokers, LLC d/b/a SKI Brokerage
- Pennell and Wiltberger Inc. d/b/a PWI Engineering, Inc.
- Gotham Energy 360, LLC d/b/a Gotham 360

Staff recommended that the following applicant be issued initial license as an electric power supplier for one year:

- David Energy Supply, 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. CE20010064 – In the Matter of the Petition of Comcast of New Jersey, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Eagleswood, County of Ocean, State of New Jersey.**

**BACKGROUND:** This matter involved Comcast of New Jersey, LLC (Comcast) seeking Board approval for Renewal of its Certificate of Approval to provide cable television service to the Township of Eagleswood (Township), County of Ocean for a ten-year renewal term and contains a grant of \$5,500.00 for the Township.

On January 10, 2019, Comcast filed an application with the Township for renewal of municipal consent, and on September 23, 2019, the Township adopted an ordinance granting renewal municipal consent to Comcast. On October 17, 2019, Comcast formally accepted the terms and conditions of the ordinance.

On January 21, 2020, Comcast filed a petition with the Board for a renewal of its Certificate of Approval for the Township. After review, Staff recommended that the Board approve the proposed Renewal Certificate of Approval. This Certificate shall expire on October 10, 2029.

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

#### **IV. TELECOMMUNICATIONS**

There were no items in this category

#### **V. WATER**

##### **A. Docket No. WF20080534 – In the Matter of the Petition of the Atlantic City Sewerage Company for Approval of a Financing Program Involving the Issuance of Long-Term Debt through June 30, 2024.**

**BACKGROUND:** This matter involved Atlantic City Sewerage Company (Atlantic City or Company), filing a petition with the Board on August 16, 2020, seeking approval to issue up to \$10 million in long term debt for the purposes of upgrading, expanding and renovating its sanitary sewer system and to continue to provide environmental integrity. Atlantic City sought authority to:

- (1) Issue and sell up to \$10 million aggregate principal amount of long-term debt consisting of one or more series of Long-Term Debt;
- (2) Execute and deliver one or more supplemental mortgage indentures, and such other documents; and
- (3) Take such actions as Company may be necessary or appropriate in connection with any of the foregoing.

According to the Company, the net proceeds of this transaction or series of transactions, will be used for the construction rehabilitation upgrade and expansion of various sections and components of the sanitary sewer system required to meet the needs and demands of Atlantic City, while maintaining the environmental integrity of the region.

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 petition.

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

#### **VI. RELIABILITY AND SECURITY**

There were no items in this category

#### **VII. CUSTOMER ASSISTANCE**

There were no items in this category

**VIII. CLEAN ENERGY**

There were no items in this category

**IX. MISCELLANEOUS**

**A. Approval of Minutes for the August 24, 2020 Agenda Meeting.**

**BACKGROUND:** Staff presented the minutes of the Regular Board Agenda meeting of August 24, 2020 and recommended they be accepted.

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

**After appropriate motion, the consent agenda was approved.**

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

## AGENDA

### 1. AUDITS

There were no items in this category

### 2. ENERGY

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

- A. Docket No. EM20050343 – In the Matter of the Verified Petition of Jersey Central Power and Light Company Seeking (a) Approval of the Sale of its Ownership Interest in the Yards Creek Generating Station Pursuant to N.J.S.A. 48:3-7, (b) Waiver of the Advertising Requirement of N.J.A.C. 14:1-5.6(b), (c) a Specific Determination Allowing the Yards Creek Generating Station to Be an Eligible Facility Pursuant to Section 32 of the Public Utility Holding Company Act of 1935 under the Public Utility Holding Company Act of 2005, (d) to the extent necessary, a Determination of Compliance with, or the Non-Applicability or Waiver of, the Auction Standards under the Board’s 1998 Order Adopting Auction Standards under N.J.S.A. 48:3-59 b., and (e) Other related relief.**

**BACKGROUND AND DISCUSSION:** On May 6, 2020, Jersey Central Power and Light Company (JCP&L) filed a petition with the Board seeking approval of: (1) the transfer and sale of its 50% interest in the Yards Creek Generation Station (Yards Creek Facility); (2) the waiver of the advertising requirements; (3) a determination allowing the Yards Creek Facility to be an eligible facility pursuant to Section 32 of the Public Utility Holding Company Act of 1935 under the Public Utility Holding Company Act of 2005; (4) a determination of compliance with, or waiver of, the auction standards under the Board’s 1998 Order adopting auction standards; (5) approval to terminate the 1964 Agreement; and (6) the net proceeds of the proposed sale to be applied to reduce the deferred storm-related regulatory asset balance.

Through the course of the proceeding, Board Staff (Staff) and the New Jersey Division of Rate Counsel (Rate Counsel) propounded several rounds of discovery, which JCP&L responded to them.

On September 23, 2020, the Rate Counsel submitted comments on the petition. In its comments, the Rate Counsel indicated that it did not object to the sale, but requested that the Board permit the Rate Counsel and Staff to review the final accounting of the sale and the calculation of the net proceeds in order to ensure that the fees, net plant and costs netted from the sales price are reasonably managed. JCP&L submitted reply comments on September 25, 2020.

Staff recommended that the Board issue an Order approving the sale, subject to the conditions set forth in the Order.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**B. Docket Nos. BPU ER20020146 and OAL PUC 04343-20 – In the Matter of the Verified Petition of Jersey Central Power and Light Company for Review and Approval of Increases in and Other Adjustments to its Rates and Charges for Electric Service, and for Approval of Other Proposed Tariff Revisions in Connection Therewith (2020 Base Rate Filing).**

**BACKGROUND AND DISCUSSION:** On February 18, 2020, Jersey Central Power and Light Company (JCP&L or Company) filed a petition with the Board seeking approval of an increase in its operating revenues of approximately \$186.9 million, to be effective for electric service provided on or after March 19, 2020. The Company also sought Board approval to implement new depreciation rates as well as approval of a return on equity of 10.15%.

According to the petition, the Company's current electric distribution rates are not just and reasonable because they do not produce an adequate return on the Company's invested capital, and do not provide sufficient revenues to recover the Company's investment in rate base and its operating expenses.

The Company also sought the following: 1) revisions to certain terms and conditions of its existing tariff; 2) certain revisions to its LED Street Lighting tariff; and 3) approval to roll in all of the capital investments under the Company's Reliability Plus program.

By Order dated March 9, 2020, the Board suspended the proposed rate increase until July 19, 2020, and on July 15, 2020, the Board further suspended the implementation of rates until November 19, 2020.

On March 11, 2020, this matter was transmitted to the Office of Administrative Law as a contested case and was assigned to Administrative Law Judge (ALJ) Irene Jones for consideration and hearing. A telephonic pre-hearing conference was held by ALJ Jones on July 17, 2020. On August 11, 2020, a Pre-Hearing Order and Procedural Schedule were issued. Additionally, in the Pre-Hearing Order, ALJ Jones granted intervener status to the New Jersey Large Energy Users Coalition, Walmart Inc., Department of Defense / Federal Executive Agencies (DOD/FEA), and Commercial Metals Company (CMC). On or about March 30, 2020, Public Service Electric and Gas Company filed a motion to participate.

On June 2, 2020, JCP&L updated its petition to include nine months of actual data and three months of estimated data. The requested rate increase was modified to \$181.98 million. On July 31, 2020, JCP&L updated its petition to include 12 months of actual data. As a result, the requested rate increase was modified to approximately \$185.34 million.

Throughout the course of the proceeding, the Company, Board Staff (Staff), the New Jersey Division of Rate Counsel (Rate Counsel) as well as other parties held numerous discovery and settlement conferences. Following discussions among the parties, the Company, Board Staff, the Rate Counsel, DOD/FEA, Walmart, and CMC (collectively, Signatory Parties) executed a stipulation of settlement (Stipulation) resolving this matter. Subsequently, ALJ Jones issued her Initial Decision in this matter approving the Stipulation, finding that the Stipulation is voluntary, consistent with the law and fully disposes of all issues in controversy.

Accordingly, Staff recommended that the Board adopt the Initial Decision and approve the Stipulation of the Signatory Parties, which would provide for an increase in base rates for service rendered on or after November 1, 2021. Staff also recommended that the Board direct JCP&L to file tariff sheets by November 1, 2020 that reflect the tariff language changes that will become effective December 1, 2020 and to file by October 1, 2021 tariff sheets that reflect the rate changes that will become effective on November 1, 2021. Staff further recommended that the Board authorize Staff to review the compliance tariff filings.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**C. Docket No. GR19020278 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval to Implement an Infrastructure Investment Program (IIP) and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:3-2A.**

**BACKGROUND AND DISCUSSION:** On February 28, 2019, New Jersey Natural Gas Company (NJNG or Company) filed a petition with the Board seeking approval of a five year Infrastructure Investment Program with an investment level of approximately \$507 million (Petition). NJNG’s proposed program consisted of various transmission and distribution projects as well as the replacement of the Company-wide Information Technology systems.

By Order dated March 29, 2019, the Board retained this matter for review and hearing, and designated Commissioner Robert Gordon as the Presiding Officer and authorized Commissioner Gordon to rule on all motions that arise during the pendency of these proceedings, and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. On July 29, 2019, Commissioner Gordon issued a Prehearing Order.

Throughout the course of this proceeding, the Company, New Jersey Division of Rate Counsel, and Board Staff (Staff) (collectively, Parties) engaged in extensive discovery and several settlement conferences discussing issues in the Petition. Subsequently, the Parties executed a stipulation of settlement (Stipulation).



The Stipulation would allow the Company to invest \$150 million to construct redundant distribution mains, replace aging gas mains, replace or extend trunk lines, reconstruct a regulator station, and install approximately 8,000 Excess Flow Valves and nearly 50,000 regulator protectors.

Staff recommended that the Board issue an Order approving the Stipulation of the Parties.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**D. Docket No. GR20060377 – In the Matter of the Petition of New Jersey Natural Gas Company for Approval of the Cost Recovery Associated with Energy Efficiency Programs.**

**BACKGROUND AND DISCUSSION:** On May 29, 2020, New Jersey Natural Gas Company (NJNG or Company) filed a petition (May 2020 Petition) with the Board seeking review and approval for the Energy Efficiency rate (EE Rate) for Rider F be decreased from \$0.0171 per therm to \$0.0170 per therm [including Sales and Use Tax (SUT)], for the recovery of costs associated with the Company's SAVEGREEN Program.

According to the May 2020 Petition and based upon actual information through April 30, 2020, and estimated information for the period May 1, 2020 through September 30, 2021, NJNG anticipated being over recovered at September 30, 2020, by approximately \$0.786 million. Based on the current and anticipated levels of activity in SAVEGREEN, NJNG estimated the revenue requirement for the period October 2020 through September 2021 to be approximately \$11.334 million.

Through discovery, NJNG updated its revenue requirement to include actual information through July 31, 2020, and estimated information through September 30, 2021 (July 2020 Update). The Company's updated information indicated an anticipated over recovery at September 30, 2020, of approximately \$1.394 million, and a revenue requirement for the period October 2020 through September 2021 to be approximately \$11.665 million, reflecting an EE Rate of \$0.0174 per therm (including SUT). Based upon the July 2020 Update, the Company modified its request to maintain the existing BPU-approved after-tax EE Rate of \$0.0171 per therm for recovery of the SAVEGREEN program costs.

NJNG, Board Staff (Staff) and the New Jersey Division of Rate Counsel (the Parties) executed a Stipulation of Settlement (Stipulation) that allows the Company to maintain its current EE Rate of \$0.0171 per therm (including SUT).

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

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**E. Docket No. EM20090599 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of the Sale of Personal Property Known as the McDonnell Douglas MD530F Helicopter.**

**BACKGROUND AND DISCUSSION:** On September 18, 2020, Public Service Electric and Gas Company (PSE&G or Company) filed a petition with the Board seeking approval of the sale of its McDonnell Douglas MD530F helicopter (Helicopter) and all personal property associated with the Helicopter (collectively, the Property) to Tim L. Harding (Buyer) for a purchase price of \$1,300,000.00.

PSE&G originally acquired the Helicopter in 2006 for a purchase price of approximately \$1,400,000.00. According to an appraisal, the fair market value of the Helicopter is \$1,065,000.00. PSE&G has used the Helicopter to conduct aerial inspections and system patrols of the overhead transmission system. However, PSE&G determined that owning and operating the Helicopter is no longer cost-effective and that the Company would instead use contracted helicopter services to fulfill its inspection and related obligations.

On May 13, 2020, PSE&G entered into a brokerage agreement with Asian Sky Group Limited (Broker) to assist in locating a purchaser for the Helicopter. The Broker conducted a multi-channel marketing effort, which ultimately identified the Buyer as a potential purchaser. On August 28, 2020, PSE&G executed a sale and purchase agreement (Contract) with the Buyer.

The Company, Board Staff and the New Jersey Division of Rate Counsel participated in discovery and comment submittal.

Staff recommended that the Board issue an Order approving the sale, subject to the terms and conditions set forth in the Board Order.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

### 3. CABLE TELEVISION

#### **A. Docket Nos. OAL CTV 009775-02 and BPU CR02100723 – In the Matter of TWFANCH-One Co. d/b/a Time Warner Cable (Bergen System) Rate Change Under Form 1205 Determining Regulated Equipment and Regulation Costs.**

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

**BACKGROUND AND DISCUSSION:** This matter involved a proposed Stipulation of Settlement (Settlement) which if approved would resolve a rate matter filed by the former Time Warner Cable (Time Warner) that has been pending on appeal at the Federal Communications Commission (FCC) since September 22, 2003.

This matter was opened upon the filing On October 1, 2002 by TWFranch-One d/b/a Time Warner Cable, Bergen System (Time Warner), n/k/a Spectrum New York, LLC (Spectrum), a local cable television operating subsidiary of Charter Communications, Inc. (Charter) of an annual Federal Communications Commission (FCC) Form 1240 for the Bergen New Jersey system accompanied by an Aggregate FCC Form 1205 covering the cable equipment and Installation costs for all Time Warner systems nationwide, including the Bergen New Jersey system.

The matter was deemed a contested case and on October 31, 2002, the Board transmitted both filings to the Office of Administrative Law for initial disposition. Plenary hearings on these filings were held before Administrative Law Judge (ALJ) William Gural on May 8 and 9, 2003. Appearing in the proceeding were the Board's Staff (Staff), the New Jersey Division of the Ratepayer Advocate (Rate Counsel) and Time Warner (collectively the Parties). On July 8, 2003, ALJ Gural issued his Initial Decision. On July 28, 2003, Time Warner and Rate Counsel filed Exceptions to the Initial Decision, with Reply Exceptions filed on August 4, 2003. The Board decided the matter at its August 18, 2003, regularly scheduled agenda meeting and issued an Order Adopting the Initial Decision on August 19, 2003 and ordered refunds consistent with the Order to be issued within 60 days of the decision.

On September 22, 2003, Time Warner filed an appeal of the Board's final rate Order with the FCC. Replies to the appeal were filed by Staff and the Rate Counsel on October 21 and October 22, 2003 respectively. Time Warner filed its reply to Staff and Rate Counsel's oppositions to its appeal on November 7, 2003. The matter has been pending at the FCC since that time.

On May 18, 2016, Charter acquired Time Warner, including its Bergen New Jersey system. As part of the merger and acquisition, Charter subsumed responsibility for all Time Warner's pending obligations including the potential refund liability presented by the instant matter.

In light of the longstanding nature of the matter at bar which has been pending for 17 years under appeal, the parties engaged in negotiations in an effort to settle the outstanding issues in the matter and finalize the matter without further delay. In furtherance of these discussions, Charter submitted a Stipulation of Settlement whereby the pending appeal would be withdrawn with prejudice from the FCC and customers in the Bergen system

would receive a monetary credit and be permitted to participate in certain equipment and programming in kind benefits.

Specifically, Settlement calls for a three prong agreement whereby a non-bulk rate residential customers of record as of October 1, 2020, would share in a pro-rata share of \$750,000.00 in refunds over a six-month period. Also, as part of the Settlement the Company is proposing an equipment in kind offer whereby customers would be offered the ability to purchase an Apple TV device for \$90.00, a 50% discount off the standard retail price, and a programming in kind offer to certain customers that would provide customers the ability to obtain HBO for two months free or Showtime for four months free. This offer is only available to customers who do not currently subscribe to these channels.

The parties came to agreement and executed the Stipulation of Settlement (Stipulation) on October 21, 2020. Staff believed the Stipulation represented an equitable resolution of this long standing matter and provides customers with benefits. Therefore, Staff recommended that the Board approve the Stipulation of the Parties.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

#### 4. TELECOMMUNICATIONS

There were no items in this category

#### 5. WATER

**Michael Kammer, Director, Division of Water**, presented these matters.

##### **A. Docket No. WX19050614 – In the Matter of Proposed Amendment to N.J.A.C. 14:9 Wastewater (Sewer) System Improvement Charge.**

**BACKGROUND AND DISCUSSION:** On March 9, 2020, the Board approved proposed amendments to the New Jersey Administrative Code at N.J.A.C. 14:9 “Water and Wastewater,” regarding the Wastewater System Improvement Charge for filing with the Office of Administrative Law (OAL) and publication in the New Jersey Register. The rule proposal was filed with OAL on March 31, 2020, and was subsequently published in the NJ Register on April 20, 2020, for comment by any interested parties. The 60-day comment period ended June 19, 2020.

The Distribution System Improvement Charge (DSIC) is a regulatory mechanism which creates a financial incentive for water utilities to accelerate the level of investment necessary to promote the timely rehabilitation or replacement of certain non-revenue producing critical water infrastructure. DSIC projects enhance safety, reliability and/or conservation and speed the rate of renewal of aging infrastructure.

As a result of several Stakeholder meetings and comments received, Staff recommended that the Board authorize for publication a fund rule, which will allow interested wastewater industry to institute a WSIC to replace an aging industry for the sewer industry. Staff also recommended the Board to authorize Staff's response to comments, for filing with the OAL and publication in the New Jersey Register.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**B. Docket No. WX19050612 – In the Matter of Proposed Amendment to N.J.A.C. 14:9 Adoption by Reference of the Uniform System of Accounts for Water Utilities.**

**BACKGROUND AND DISCUSSION:** This matter involved the Board considering a recommendation by Staff that a proposed rule updating the Uniform System of Accounts for Water Utilities be published for public comment in the New Jersey Register.

There is no equivalent Federal agency for the water industry, so the Board has adopted its own Uniform System of Accounts for Class A and B Water Utilities, for Class C Water Utilities, and for Class D Water Utilities (collectively, Water Uniform System of Accounts). The Water Uniform System of Accounts were last updated by Board Order on September 30, 1959 and become effective on January 1, 1960. The Water Uniform System of Accounts are based on the Water Uniform System of Accounts that were submitted by National Association of Regulatory Utility Commissioners (NARUC) to each state's public utility commission, including the Board, for consideration and possible adoption, in April 1957.

The Water Uniform System Accounts have not been updated and do not properly account for such items as leased vehicles, the use of consultants, toner, the increased use of computers, etc.

Staff recommended that the Board amend the New Jersey Administrative Code, by proposing a rule that adopts, by reference, the Uniform System of Accounts for Class A, Class B and Class C Water Utilities that have been promulgated by NARUC as well as all present and subsequent amendments, revisions, deletions and corrections that NARUC may adopt insofar as they relate to water utilities subject to the jurisdiction of the Board and are in accordance with the Board's policies and procedures.

Staff also recommended that the Board authorize for publication in the New Jersey Register a proposed rule that will adopt the current NARUC Uniform System of Accounts, whatever that current is. In other words if NARUC makes updates to the Uniform System of Accounts for water, it will automatically flow through to the Board's Uniform System of Accounts.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**C. Docket No. WX19050613 – In the Matter of Proposed Amendment to N.J.A.C. 14:9 Adoption by Reference of the Uniform System of Accounts for Wastewater (Sewer) Utilities.**

**BACKGROUND AND DISCUSSION:** This matter involved the Board considering a recommendation by Staff that a proposed rule updating the Uniform System of Accounts for Sewer or Wastewater Utilities be published for public comment in the New Jersey Register.

The Board has adopted, by reference, the Uniform System of Accounts for gas utilities and electric utilities that have been promulgated by the Federal Energy Regulatory Commission and which are set forth in the Code of Federal Regulations (CFR). The Board has adopted, by reference, the Uniform Systems of Accounts for Telecommunication Utilities that have been promulgated by the Federal Communications Commission and which are set forth in the CFR.

There is no equivalent federal agency for the water or wastewater industries, so the Board has adopted its own Uniform System of Accounts for the water and wastewater utilities. The Board's Water Uniform System of Accounts are based on the National Association of Regulatory Utility Commissioners (NARUC) Water Uniform System of Accounts. The Board's Wastewater (Sewer) Uniform System of Accounts were adopted by Board Order dated February 6, 1957 and became effective on April 1, 1957. The Board's Order does not indicate if the Board's Wastewater (Sewer) Uniform System of Accounts were based another Uniform System of Accounts such as those promulgated by NARUC.

The order adopting the Sewer Uniform System of Accounts does not indicate if they are based on another Uniform System of Accounts such as NARUC's. Since the Board's Water Uniform System of Accounts are based on the NARUC Water Uniform System of Accounts and since NARUC has a Uniform System of Accounts for Sewer Utilities, Staff recommended that the Board amend the New Jersey Administrative Code, by proposing a rule that adopts, by reference, the Uniform System of Accounts for Sewer Utilities that have been promulgated by NARUC as well as all present and subsequent amendments, revisions, deletions and corrections that NARUC may adopt insofar as they relate to wastewater utilities subject to the jurisdiction of the Board and are in accordance with the Board's policies and procedures.

Staff also recommended that the Board propose a rule in the New Jersey Register for comment that would follow the current version of the NARUC Uniform System of Accounts.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**D. Docket Nos. BPU WR19121516 and OAL PUC 17894-2019S – In the Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of Increased Tariff Rates and Charges for Water and Wastewater Service and Other Tariff Modifications.**

**BACKGROUND AND DISCUSSION:** On December 16, 2019, New Jersey-American (NJAWC or Company) filed a petition with the Board requesting an increase in operating revenues of \$87.8 million, or approximately 12.3% over projected pro-forma rate revenues. The filing was based upon a test year ending June 30, 2020. The filing contained five months of actual and seven months of projected data and included proposed post-test year adjustments that reflected changes in capital expenditures through December 31, 2020. The filing also included changes in certain revenues and expenses through March 31, 2021.

The matter was transmitted to Office of Administrative Law, and assigned to Administrative Law Judge (ALJ) Jacob S. Gertsman. On February 18, 2020, ALJ Gertsman issued a Prehearing Order establishing procedures and hearing dates for the Middlesex Water Company, Aqua New Jersey, Inc., Johanna Foods, Inc., Cogen Technologies Linden Venture, Rutgers, the State University, Phillips 66 Company, and Princeton University, the City of Elizabeth, the Mount Laurel Township Municipal Utilities Authority, Local 423 of the Utility Workers Union of America, the Township of Bedminster, Borough of Far Hills, the Borough of Bernardsville, the Township of Bridgewater, the Borough of Raritan, the Township of Raritan, and Borough of Peapack-Gladstone filed appropriate motions and were granted intervenor status.

After proper notice, six public hearings were held in various locations throughout NJAW's service territory.

Extensive discovery was exchanged and evidentiary hearings were held before ALJ Gertsman. The parties also engaged in settlement discussions. As a result of these discussions, NJAWC, New Jersey Division of Rate Counsel and Board Staff (collectively, the Parties) reached a Stipulation of Settlement (Stipulation) resolving all issues in this proceeding. Among other things, the Stipulation agreed that:

1. NJAWC will be permitted to increase its base rates in a manner designed to produce a total annual operating revenue increase of \$39 million, an overall revenue increase for water and wastewater service of 5.52%.

2. The pro forma revenues to which the \$39 million increase will apply is \$711,600,038.00.
3. The annual revenue requirement increase is based upon a rate base of \$3,573,449,655.00. The Stipulating Parties agree to an overall rate of return of 7.0306% and the return on common equity of 9.6%.
4. The impact of the Tax Cuts and Jobs Act of 2017 (TCJA) is also addressed in this proceeding. NJAW's rates will be offset by a TCJA related credit so customers which will delay the impact of the rate increase resulting from this stipulation until September 1, 2021.
5. All of the interveners submitted letters of non-objection to the Stipulation.

On October 21, 2020, ALJ Gerstman issued an Initial Decision and recommended that the Board adopt the Initial Decision.

On October 23, 2020, NJAW advised the Board and parties that the executed Stipulation incorrectly stated the long-term debt ratio. The Company further advised that it was merely a typographical error and did not flow through to any other number in the Stipulation or to any of the Stipulation's supporting schedules. The Company requested that the Stipulation be corrected on the record and represented that all parties consented to the request.

Staff recommended that the Board modify the initial decision to correct the Stipulation of the record in order to correct this minor typographical error. Therefore, with that modifications, Staff recommended that the Board adopt the initial decision.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**E. Docket Nos. BPU WR20030256 and OAL PUC 04828-20S – In the Matter of the Petition of New Jersey-American Water Company, Inc. for Authorization to Implement a Distribution System Improvement Charge.**

**BACKGROUND AND DISCUSSION:** New Jersey-American Water Company (NJAWC or Company) filed a petition with the Board seeking approval of its Foundational Filing to enable the implementation of a Distribution System Improvement Charge (DSIC) for the renewal of water distribution system assets for the period of 2020 through 2024 (Foundational Filing).

On April 2, 2020, the Board transmitted this matter to the Office of Administrative Law as a contested case, along with a request that this matter be consolidated with NJAWC's pending base rate case. The petition was assigned to Administrative Law Judge (ALJ)



Jacob S. Gertsman, and on August 20, 2020, ALJ Gertsman issued an order consolidating this matter with the Company's pending base rate case.

The Company, the New Jersey Division of Rate Counsel and Staff executed a stipulation of settlement (Stipulation) that provided that the projects listed in Appendix C - Project List begin after the test year in NJAWC's last base rate case (June 30, 2020) are DSIC-eligible projects within the scope and meaning of the definition set forth in N.J.A.C. 14:9-10.2 and N.J.A.C. 14:9-10.3(a) and are eligible to be included in NJAWC's DSIC filings.

The Stipulation also provided that NJAWC may include in its semi-annual DSIC filings for recovery under this Foundational Filing any and all projects approved and carried over from a prior DSIC period.

According to the Stipulation, the annual "base spending" is \$41,211,007.00, based on the information filed in the Company's last annual report on file with the Board (the 2019 Annual Report) at the time new base rates are expected to be set. The maximum amount of annual DSIC revenue that may be collected by the NJAWC is \$38,243,858.00, or 5% of the revenues expected to be set in the Company's base rate case.

The Company requested an expedited order with an effective date of October 28, 2020, and the subject rates becoming effective November 1, 2020.

Staff recommended that the Board approve the Company's implementation of a distribution system improvement charge.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**F. Docket No. AX18010001 – In the Matter of the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017; and**

**Docket No. WR18030233 – In the Matter of the Petition of New Jersey-American Water Company, Inc. with Calculation of Rates under the Tax Cuts and Jobs Act of 2017.**

**BACKGROUND AND DISCUSSION:** The Tax Cuts and Jobs Act of 2017 (Tax Act) was signed into law on December 22, 2017 with an effective date of January 1, 2018. The 2017 Act sets forth changes to the Federal Internal Revenue Tax Code, including a reduction in the maximum corporate tax rate from 35% to 21%.

The Board issued an Order on January 31, 2018, establishing a proceeding for all affected utilities to consider the implications of the Tax Act.

New Jersey-American Water Company (NJAW or Company) filed a petition in response to the Board's Order on March 2, 2018. The Company's filings also included proposals

related to the effects of the 2017 Act on Accumulated Deferred Income Taxes (ADIT), which would be addressed at a later date of this proceeding.

NJAW, New Jersey Division of Rate Counsel, and Board Staff (collectively, Signatory Parties) entered into a partial stipulation of settlement (Partial Stipulation) which resolved certain issues related to the Company's filing. The Board approved the Partial Stipulation by Order dated July 10, 2019.

On December 6, 2019, the Company submitted its updated excess ADIT balances and amortization calculations, and its proposal for the return of the excess ADIT to its customers. NJAW subsequently filed a petition for a base rate increase.

The Signatory Parties engaged in further discovery and settlement discussions in this matter. As a result of those settlement discussions, the Signatory Parties reached a Stipulation of Settlement (Stipulation) that agreed on the remaining disputed issues:

The Signatory Parties reviewed the Company's filing, exchanged discovery, filed comments and reply comments, and reached a resolution with regard to the disposition of the all disputed issues that emanated from NJAW's Tax Filing. The Stipulation addressed and agreed to the following:

1. NJAW's net protected Excess ADIT (EADIT) balance of \$187,871,903.00 is subject to Internal Revenue Service normalization rules and will be amortized and returned to customers over the remaining life of the underlying assets, pursuant to Average Rate Assumption Method. NJAW's net protected EADIT balance been recorded as a regulatory liability;
2. NJAW's net unprotected EADIT balance of \$132,572,173.00 has also been recorded as a regulatory liability;
3. NJAW's net unprotected EADIT balance is not subject to IRS normalization rules and will be amortized and returned to customers over a period of 15 years;
4. NJAW shall pass back to customers (a) the entire amount of the EADIT deferred during the "catch-up" period of January 1, 2018 through October 31, 2020 and (b) the protected and unprotected EADIT to be amortized during the 12-month period of November 1, 2020 through October 31, 2021;
5. During the 12-month period beginning on November 1, 2020, NJAW will pass back to customers \$52,783,614.00 of EADIT (grossed up) through a combination of new base rates approved in the Rate Case and sur-credit on customers' bills. Of that amount, \$9,859,082.00 is related to the amortization protected EADIT pursuant to ARAM and \$43,014,532.00 is related to the amortization of unprotected EADIT over a 15-year period; and
6. The total sur-credit amount of \$32,500,000.00 which is included in the \$52,873,614.00 EADIT total (grossed up) will be passed back monthly to customers (\$3,250,000.00 per month) to customers over a 10-month period beginning with the effective date of base rates in the Rate Case.

Staff recommended that the Board adopt the Stipulation of the Signatory Parties.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**6. RELIABILITY AND SECURITY**

There were no items in this category

**7. CUSTOMER ASSISTANCE**

There were no items in this category

**8. CLEAN ENERGY**

**Benjamin Goldstein, Program Specialist, Division of Clean Energy**, presented these matters.

**A. Docket No. QO20090602 – In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$500,000.00 – Hudson County Meadowview Complex.**

**BACKGROUND AND DISCUSSION:** On February 7, 2020, Hudson County Meadowview Complex (Hudson County) submitted an application under the Fiscal Year 2020 Pay for Performance – Existing Buildings (P4P–EB) Program pursuant to the New Jersey Clean Energy Program (NJCEP) Energy Efficiency and Renewable Energy Program Plan Filing for Fiscal Year 2020 to the Board for approval of a financial incentive of \$1,500,342.20 for a project that will cost \$10,556,061.00. The project is located at the Meadowview Complex, 595 County Avenue, Secaucus, New Jersey.

The energy conservations measures proposed through this application are extensive and run the gamut from simple lighting upgrades to a more complex decentralization of the complex's boiler system. Specifically, the proposed upgrades will do the following:

- Retrofit all interior and exterior lights with LEDs;
- Install building envelope upgrades to both air sealing and insulation;
- Replace hot water pump motors with newer models that feature variable frequency drives;
- Install a new high efficiency air-cooled chiller;
- Decentralize the complex's boiler plant and replace it with localized condensing boilers and hot water heaters at the various buildings within the complex;

- Incorporate building management system upgrades that include temperature controls, scheduling, fan controls, and ventilation controls; and
- Install new high efficiency transformers.

The estimated first incentive, for purchase of the equipment, is \$50,000.00. The estimated second incentive, for completed installation of the system, is \$725,171.10. The estimated third incentive, granted after acceptance and confirmation of required performance threshold data, is \$725,171.10. These incentive amounts are within entity cap guidelines. The project is anticipated to accomplish the following on an annual basis: conserve 1,406,955 kWh of electricity and 17,318 therms of natural gas, reduce peak demand by 139 kW, and result in energy cost savings of \$264,796.00. The payback period without incentives is 36.6 years; when factoring in the incentives, the payback period is reduced to 30.8 years.

Based on the certifications and the information provided by the Program Manager and Program Administrator, Staff recommended approval of the application for the total estimated incentive amount of \$1,500,342.20, 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.

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**B. Docket No. QO20090603 – In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$500,000.00 – Hudson County Correctional Facility.**

**BACKGROUND AND DISCUSSION:** On February 7, 2020, Hudson County Correctional Facility (Hudson County) submitted an application under the Fiscal Year 2020 (FY20) Pay for Performance – Existing Buildings (P4P–EB) Program pursuant to the New Jersey Clean Energy Program (NJCEP) Energy Efficiency and Renewable Energy Program Plan Filing for Fiscal Year 2020 (FY20) to the Board for approval of a financial incentive of \$1,068,670.98 for a project that will cost \$5,081,250.00. The project is located at the Hudson County Correctional Facility in Kearny, New Jersey.

Numerous energy conservations measures are proposed through this application. First, the facility’s interior and exterior lighting will be replaced with LEDs. The building will also receive envelope upgrades in the form of air sealing to prevent heat from leaking. The facility’s existing hot water pump motor will be replaced with a new, highly efficient model that utilizes a variable frequency drive, and the existing building management system will be upgraded to control heating, ventilation and air conditioning. Finally, the measures will include a new, high-efficiency hot water heater, condensing boiler, and transformers.

The estimated first incentive, for purchase of the equipment is \$50,000.00. The estimated second incentive, for completed installation of the system, is \$509,335.49. The estimated third incentive, granted after acceptance and confirmation of required performance

threshold data, is \$509,335.49. These incentive amounts are within entity cap guidelines. The project is anticipated to accomplish the following on an annual basis: conserve 1,927,980 kWh of electricity and 75,273 therms of natural gas, reduce peak demand by 254 kW, and result in energy cost savings of \$272,743.00. The payback period without incentives is 15.3 years; when factoring in the incentives, the payback period is reduced to 11.7 years.

Staff recommended approval of the application for the total estimated incentive amount of \$1,068,670.98.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**C. Docket No. QO18070713 – In the Matter of Request Proposal for Consulting Services: New Jersey's Clean Energy Program Advertising/Public Relations/Marketing Research and Web Design and Maintenance – Executive Session.**

**Cathleen Lewis, Outreach Coordinator, Division of Clean Energy,** presented this matter.

This matter was discussed in executive session pursuant to attorney-client privilege and contract negotiations exception to the Open Public Meetings Act. The Board will make the contents of its discussion of the above matter public at the earliest appropriate time.

**D. Docket No. QO19060447 – In the Matter of City of Newark – Pay for Performance and Combined Heat and Power Applications – Request Relief and Extension.**

**Benjamin Goldstein, Program Specialist, Division of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** On March 31, 2020, Honeywell Energy Services Group (Honeywell or Petitioner) filed a Petition with the Board on behalf of the City of Newark, seeking additional time to submit final paperwork for 13 energy efficiency projects and a combined heat and power (CHP) project. On August 12, 2020, the Board granted the Petitioner's request for additional time to submit the required paperwork for the Pay for Performance projects, but declined to rule upon the Petitioner's request regarding its CHP application.

Since the issuance of the August 12, 2020 Order, Staff gathered the additional required information from Honeywell on the CHP project. The Petitioner provided documentation of its initial approval and of the two extensions granted. The extension letters indicated that substantial progress had been made on the project, justifying the grant of additional time.

Staff recommended that the Board approve an extension of 60 days from the effective date of this order for Honeywell to submit final paperwork for the CHP application.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**E. Docket No. QO20090624 – In the Matter of the Release of a Request for Quotation for Consulting Services for New Jersey's Whole House Pilot Program.**

**Stacy Ho Richardson, Deputy Director, Division of Clean Energy**, presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved Staff requesting the Board issue a Request for Quotation (RFQ) for a consultant to assess the feasibility of streamlining and integrating services statewide to address health and safety barriers and implement energy efficiency improvements in homes, as well as to design a "Whole House" pilot program for low- to moderate income residents.

Through the Clean Energy Act and the Energy Master Plan, energy efficiency is playing an important role in achieving the State's goal of 100% clean energy by 2050 by building sustainable infrastructure, reducing energy consumption and carbon emissions, ensuring universal access to cost-effective energy efficiency measures, and fostering equitable economic development.

The Energy Master Plan calls for the establishment of a clearinghouse for home energy and health and safety programs targeted to low-income households. State-funded programs that serve low-income customers should be leveraged and coordinated to ensure that energy efficiency, health, and safety measures can be better marketed and provided and that structural, health, and safety issues are addressed at the same time as energy upgrades. Many stakeholders participating in the energy efficiency transition public outreach process also expressed support for such an approach.

Through this whole-house approach, energy efficiency improvements will be integrated seamlessly with government and non-government efforts that remediate health and safety hazards, such as water intrusion, mold, asthma triggers, asbestos, lead, and other heavy metals or contaminants. A whole house approach ultimately seeks to coordinate energy efficiency improvements and health and safety hazard remediation into an integrated, single-stream process that leads to the great possible benefits for residents and communities.

The RFQ will solicit quotations from consultants who can review and analyze case studies and best practices from other states; identify and assess existing data, programs, resources, and funding streams in New Jersey that could be used and leveraged as part of a whole house approach to implementing energy efficiency and addressing health and safety hazards; design and implement a pilot program in a municipality in the state that

streamlines and integrates existing programs to provide these services for single- and multi-family residences occupied by low- to moderate-income residents; and assess pilot performance as a basis for establishing a statewide program.

Staff recommended that the Board approve the RFQ for a consultant to provide professional technical services to design, implement, and evaluate a whole house pilot program for the State of New Jersey.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

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

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

**BACKGROUND AND DISCUSSION:** This matter involved a proposed rule amendment to the Board’s renewable portfolio standards (RPS). Specifically, this proposed rule amendment would modify the types of energy that qualify as a Class I renewable energy resource to include any electricity derived from solar technologies or photovoltaic technologies generated within or delivered into the PJM region, provided that projects are not also receiving Solar Renewable Energy Certificate (SRECs), Transition Renewable Energy Certificates (TREC) or any other form of clean energy credit.

Currently, Class I Renewable Energy Credits (RECs) are limited to solar generation facilities connected to New Jersey’s distribution system that have exhausted their SRECs or TRECs.

This proposed rule amendment arose from a petition for rulemaking from Dakota Power Partners, LLC (Petitioners), originally filed on January 14, 2020. The Petitioners noted that New Jersey law at N.J.S.A. 48:3-51 defines Class I Renewable Energy to include, without limitation or qualification, electric energy produced from solar technologies and photovoltaic technologies.

However, the Board rules are more restrictive, limiting Class I eligibility to qualified solar facilities that have exhausted their SRECs or TRECs. This has the effect of blocking both in-state and out-of-state large-scale solar facilities from contributing to RPS, even though state law recognizes such facilities as eligible for Class I RECs. This rule proposal will help the State meet its RPS requirements and bring us into compliance with the statute.

Notably, the Board’s rules that govern the eligibility for solar facilities to qualify for SRECs and TRECs are purposefully restrictive, such that they allow the Board to steer solar development toward contaminated industrial and commercial sites and discourage development on farmland and open space. Staff noted that the intention to guide large-

scale solar development to the built environment and marginalized land has not changed, and anticipates that the forthcoming Successor Solar program will allow for the continuation of these preferences.

Staff also noted that similar Class I-eligible resources, such as onshore wind, do not face similar restrictions in New Jersey's RPS. It needlessly raises RPS costs to disallow large-scale solar electric energy to compete against other Class I renewable energy generators to fulfill New Jersey's RPS.

The proposed amendments will bring New Jersey into compliance with its clean energy statute and help the state meet the standards for renewable energy set forth by the legislature in the Clean Energy Act of 2018.

Staff recommended the proposed rule be published in the New Jersey Register and made available for public comment.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**G. Docket No. QO20100661 – In the Matter of the Department of Environmental Protection – Board of Public Utilities Memorandum of Understanding on Renewable Portfolio Standard and Waste Incinerators.**

**Kelly Mooij, Director, Office of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved a Memorandum of Understanding (MOU) with the New Jersey Department of Environmental Protection (NJDEP) on Renewable Portfolio Standards and Waste Incinerators.

This matter addresses how the Board determines the eligibility of in-state waste incineration facilities to receive Class II Renewable Energy Credits (RECs). The Electric Discount and Energy Competition Act provides that electric energy produced at a resource recovery facility qualifies for Class II RECs, provided “that the Commissioner of the NJDEP has determined that the facility meets the highest environmental standards and minimizes any impacts to the environment and local communities.”

Currently, the Board and NJDEP have no formal mechanism for documenting whether the NJDEP views in-state waste incineration facilities as meeting the statutory standard. However, out-of-state waste incineration facilities are required to provide a certification from their NJDEP-equivalent annually by October 1<sup>st</sup> in order to remain qualified to sell Class II RECs that qualify for compliance with New Jersey's renewable portfolio standard.



Using the process for out-of-state facilities as a model, this MOU institutes a process whereby, on October 1<sup>st</sup> of each year, the NJDEP will formally notify the Board whether any waste incineration facility has fallen out of compliance with the statutory standard and therefore lost its eligibility to sell Class II RECs.

The MOU will clarify the roles of the NJDEP and the Board; the statutory standard is clear, and this will establish a better means of tracking eligibility for these facilities. Therefore, Staff recommended adoption of this MOU.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

## 9. MISCELLANEOUS

### A. Docket No. EG20060445 – In the Matter of the Energy Assistance Grant as Authorized Under N.J.S.A. 48:2-29.39 – Payment Assistance for Gas and Electric (PAGE) Program – Order Authorizing Grant Award – Executive Session.

Maureen Clerc, USF Team, presented this matter.

**BACKGROUND AND DISCUSSION:** This matter was initially discussed in Executive Session and it pertained to the administration of the Board's Payment Assistance for Gas and Electric program (PAGE). The PAGE program provides financial assistance to low-to moderate-income residential customers with their electric and gas bills. The Board is required to designate a nonprofit organization to receive this funding to administer the PAGE program on its behalf.

The PAGE is currently administered by the Affordable Housing Alliance (AHA), of Neptune, New Jersey. The Board's contract with AHA expires January 2021. Therefore, in June, the Board initiated a competitive bidding process by authorizing the issuance of a notice of grant availability to solicit bids from nonprofits seeking to administer the PAGE for the next contract period. The notice was published in the New Jersey Register on August 17, 2020, as well as on our website, and was e-mailed out to numerous potentially interested parties.

Additionally, a question-and-answer period was provided to all potentially interested bidders. These questions and answers were posted to the Board's website and were e-mailed to all potentially interested parties. Two bids were received by the due date of September 16, 2020 from the nonprofit organizations, AHA and New Jersey Shares.

An evaluation committee comprised of Board Staff was formed to independently review and score each proposal according to the criteria listed in the notice. AHA scored 46 AHA also received the highest score from each committee member, as well as in all scoring

criteria. Therefore, the committee was unanimous in recommending AHA continue as the PAGE program administrator.

If approved, this contract would take effect in January 2021 and would be for a two-year period with an option to extend for a third year, with approval by the Board.

Therefore, Staff recommended the Board award the PAGE contract to the Affordable Housing Alliance.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

**B. Docket No. AO20060471 – In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic.**

**Robert Brabston, Deputy Executive Director**, presented this matter.

**BACKGROUND AND DISCUSSION:** On March 9, 2020, Governor Phil Murphy signed Executive Order No. 103 (EO 103) declaring a State of Emergency and a Public Health Emergency in response to the COVID-19 pandemic in order to ensure the continuity of government services and protect the public.

Shortly after the emergency declaration, The moratorium period was ultimately extended on October 15, 2020 through Executive Order 190 (EO 190) to March 15, 2021, which prohibited the gas, electric, and water utilities from discontinuing any gas, electric, or water service to New Jersey residents due to nonpayment or from collecting any fee or charge imposed for late or otherwise untimely payments or service reconnections that have accrued, and will continue to accrue, during the public health emergency.

On July 2, 2020, the Board initiated the current proceeding by authorizing companies to set up a regulatory asset on their books to record the costs of responding to the pandemic and directing the companies that do set up a regulatory asset to make quarterly filings detailing the costs that they are experiencing and recording.

Staff has continued to work with other agencies, utilities, and other interested stakeholders on a variety of matters related to the pandemic. It has become evident that a formal proceeding is needed in order to adequately address numerous, complex, and pressing issues that customers and the industry statewide basis.

Staff recommended that the scope of the current proceeding be expanded in order to address, among other issues, the impact of Executive Order 190 on customers and utilities, including the duration of the current moratorium and to investigate the appropriate strategies and mechanisms for dealing with large past-due balances.

Staff recommended the Board to:

1. Expand the scope of Docket No. AO20060471, which is the matter listed;
2. Direct all interested stakeholders, including the New Jersey Division of Rate Counsel (Rate Counsel), utilities and other interested parties to file comments with the Board on the appropriate scope, the issues to be addressed, and the timing, and to file those comments by November 30;
3. Designate President Joseph L. Fiordaliso as the presiding commissioner over this matter who is authorized to rule on all motions that arise during the proceedings and modify any schedules that may be set as necessary to secure just and expeditious determination of the issues; and
4. Consolidate Rate Counsel's petition and the comments received and response thereto into the expanded proceeding.

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

<b>Roll Call Vote:</b>	<b>President Fiordaliso</b>	<b>Aye</b>
	<b>Commissioner Holden</b>	<b>Aye</b>
	<b>Commissioner Solomon</b>	<b>Aye</b>
	<b>Commissioner Chivukula</b>	<b>Aye</b>
	<b>Commissioner Gordon</b>	<b>Aye</b>

## EXECUTIVE SESSION

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

### 8. CLEAN ENERGY

#### **C. Docket No. QO18070713 – In the Matter of Request Proposal for Consulting Services: New Jersey's Clean Energy Program Advertising/Public Relations/Marketing Research and Web Design And Maintenance.**

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

### 9. MISCELLANEOUS

#### **A. Docket No. EG20060445 – In the Matter of the Energy Assistance Grant as Authorized Under N.J.S.A. 48:2-29.39 – Payment Assistance for Gas and Electric (PAGE) Program – Order Authorizing Grant Award.**

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 OF THE BOARD

Date: January 7, 2021