



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
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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 New Jersey Board of Public Utilities was held on July 13, 2022, via online @ <https://youtu.be/iZAKvplHa4k>

Adequate notice of the meeting was provided pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-9.3. Notice was also provided in accordance with the requirements of N.J.S.A 48:2-32.8, and notice was posted to the Board's website and posted on the Board's bulletin board located at 44 South Clinton Ave., Trenton, New Jersey.

The following members of the New Jersey 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 Carmen D. Diaz, Acting 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 August 17, 2022 at 10:00 a.m. and would be a hybrid meeting at the Board's Hearing Room at 44 South Clinton Avenue, Trenton and livestreamed via YouTube.

EXECUTIVE SESSION

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

8. CLEAN ENERGY

A. Docket No. QO22010020 – In the Matter of Customer Relationship Management System for Benchmarking.

Phil Chao, Division of Clean Energy, presented this matter.

BACKGROUND: On May 23, 2018, Governor Phil Murphy signed the Clean Energy Act into law as P.L. 2018, c. 17. The law mandates that the New Jersey Board of Public Utilities (“Board”) “require the owner or operator of each commercial building over 25,000 square feet in the State to benchmark energy and water use for the prior calendar year using the United States Environmental Protection Agency’s Portfolio Manager tool.”

To implement New Jersey’s Building Energy and Water Benchmarking Program, Board Staff (“Staff”) requested Board approval to acquire and implement a Customer Relationship Management system to manage and analyze the data associated with the program, track the benchmarking submissions through the United States Environmental Protection Agency’s Energy Star Portfolio Manager tool, and provide a help desk to field questions, as well as process appeals and requests for exemptions, from building owners and operators of commercial buildings that are over 25,000 square feet.

Staff recommended that the Board authorize Staff to work with the New Jersey Department of Treasury to finalize and release a request for proposals for public bidding.

After appropriate motion, the Board reconvened to open session.

CONSENT AGENDA

I. AUDITS

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

EE22040267L	EnergyOne LLC	I – EA/PA/EC
GE22040268L		

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

EE20020189L	Live Energy Inc.	R – EA
EE21050775L	Progressive Energy Consultants, LLC	R – EA
EE21050800L	Sable Power & Gas, LLC	R – EA
EE21070986L	Achieve Energy Solutions, LLC	R – EA/PA
GE21070987L	d/b/a EnergyPricing.com	
EE21040686L	The Legacy Energy Group, LLC	R – EA/PA
GE21040687L	d/b/a Legacy Energy; Legacy	
EE20100642L	Papillon Productions, LLC	R – EA/PA
GE20100643L		
EE21081046L	Pennell & Wiltberger Inc.	R – EA/PA
GE21081047L	d/b/a PWI Engineering, Inc.	
EE21020532L	Secure Energy Solutions, LLC	R – EA/PA
GE21020534L		

BACKGROUND: The New Jersey Board of Public Utilities (“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. N.J.S.A. 48:3-78 to -79. 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 (“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. N.J.A.C. 14:4-5.8(g); N.J.A.C. 14:4-5.11(e). Any registration renewal application that was filed prior to the effective date of the licensing and registration rule amendments, September 20, 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. N.J.S.A. 48:3-78 to -79; N.J.A.C. 14:4-5.6 to -5.7; N.J.A.C. 14:4-5.8 to -5.9, and N.J.A.C. 14:4-5.11.

Staff recommended that the following applicants be issued initial registration as an energy agent, private aggregator and/or energy consultant:

- EnergyOne LLC

In addition, Staff recommended that the following applicants be issued renewal registrations as an energy agent, private aggregator and/or energy consultant:

- Live Energy Inc.
- Progressive Energy Consultants, LLC
- Sable Power & Gas, LLC
- Achieve Energy Solutions, LLC d/b/a EnergyPricing.com
- The Legacy Group, LLC d/b/a Legacy Energy; Legacy
- Papillon Productions, LLC
- Pennell & Wiltberger Inc. d/b/a PWI Engineering, Inc.
- Secure Energy Solutions, LLC

II. ENERGY

A. Docket No. EF22020044 – In the Matter of the Petition of Atlantic City Electric Company for Authority to Issue Up to \$700 million of Long-Term Debt Securities Pursuant to N.J.S.A. 48:3-9 (2022-2024).

BACKGROUND: On February 4, 2022, Atlantic City Electric Company (“ACE”), a public utility of the State of New Jersey, filed a petition, requesting authority pursuant to N.J.S.A. 48:3-9 to: (i) not later than December 31, 2024, at its option, issue and sell in one or more series up to \$700 million in aggregate of debt securities to finance a portion of its 2022 - 2024 construction program and convert a portion of its short-term debt expected to be incurred in connection with its capital expenditure program to permanent financing; and (ii) take any other action that may be necessary or desirable in connection therewith. ACE’s requests in the petition would continue the long-term debt authority issued by the Board on December 2, 2020, in BPU Docket No. EF20080522.

In the filing, ACE represented that it has \$150 million in taxable bonds scheduled to mature during 2022 – 2024. ACE further stated that it is engaged in a construction program with estimated expenditures of \$1.4 billion for the years 2022 – 2024, designed to improve and extend its facilities to enable it to better serve the public. ACE sought the flexibility to issue long-term debt to

permanently finance up to \$700 million of short-term debt anticipated to be incurred for outlays associated with its 2022 - 2024 construction program.

The Office of the Economist after review of the information submitted in this proceeding, found that the action requested was in accordance with the law and in the public interest and therefore recommended approval of the petition.

III. CABLE TELEVISION

A. Docket No. CE20010061 – In the Matter of the Petition of Comcast of Monmouth County, LLC, for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Rumson, County Monmouth, State of New Jersey.

BACKGROUND: On January 8, 2018, Comcast of Monmouth County, LLC filed an application with the Borough of Rumson (“Borough”) for renewal of a municipal consent for a term of 10 years. On August 13, 2019, the Borough adopted an ordinance granting renewal municipal consent to Comcast. On October 17, 2019, Comcast of Monmouth County, LLC formally accepted the terms and conditions of the ordinance. On January 21, 2020, Comcast of Monmouth County, LLC filed with the New Jersey Board of Public Utilities (“Board”) for a renewal of its Certificate of Approval for the Borough.

After review, Board Staff recommended approval of the proposed Renewal Certificate of Approval. The certificate shall expire October 18, 2028.

B. Docket No. CE20040303 – In the Matter of the Petition of Comcast of Gloucester County, LLC, for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Township of Mantua, County of Gloucester, State of New Jersey.

BACKGROUND: On December 17, 2019, the Township of Mantua was notified by Comcast of Gloucester County, LLC of its intention to utilize the automatic renewal provision of its municipal consent. Mantua’s ordinance granting municipal consent, which was adopted October 5, 2009, granted a term of 10 years with an automatic renewal term of 10 years. The initial term expired on January 17, 2020. On April 16, 2020, Comcast of Gloucester County, LLC filed a petition with the New Jersey Board of Public Utilities (“Board”) for an Automatic Renewal Certificate.

After review, Board Staff recommended approval of the Automatic Renewal Certificate. The certificate shall expire January 17, 2030.

C. Docket No. CE20040309 – In the Matter of the Petition of Comcast of Garden State L.P. for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the Borough of Oaklyn, County of Camden, State of New Jersey.

BACKGROUND: On February 21, 2020, the Borough of Oaklyn (“Oaklyn”) was notified by Comcast of Garden State, L.P. of its intention to utilize the automatic renewal provision of its municipal consent. Oaklyn’s ordinance granting municipal consent, which was adopted September 13, 2005, granted a term of 15 years with an automatic renewal term of 10 years. The initial term expired on March 21, 2020. On April 21, 2020, Comcast of

Garden State, L.P. filed a petition with the New Jersey Board of Public Utilities (“Board”) for an Automatic Renewal Certificate.

After review, Board Staff recommended approval of the Automatic Renewal Certificate. The certificate shall expire March 21, 2030.

IV. TELECOMMUNICATIONS

There were no items in this category.

V. WATER

A. Docket No. WE22020072 – In the Matter of the Petition of New Jersey-American Water Company, Inc. for Approval of a Municipal Consent Granted by the Borough of Bound Brook, Somerset County.

BACKGROUND: On February 17, 2022, New Jersey-American Water Company, Inc. (“NJAWC”) filed a verified petition with the New Jersey Board of Public Utilities (“Board”) pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 to 15, N.J.S.A. 48:19-17 and 48:19-20 and N.J.A.C. 14:1-5.5, seeking approval of the following: 1) a municipal consent, Ordinance No. 2022-08, adopted May 10, 2022 by the Borough of Bound Brook to allow NJAWC to provide wastewater service to the customers in the Borough of Bound Brook (“Proposed Franchise Area”); and 2) the expansion of NJAWC’s service territory to include customers in the Proposed Franchise Area.

The Borough of Bound Brook encompasses approximately 1.7 square miles and has a population of approximately 10,288 people. The Borough of Bound Brook currently owns and operates a system servicing the residents and property owners within the Proposed Franchise Area. The system serves approximately 2,900 connections, including approximately 400 connections in Bridgewater Township.

NJAWC agreed to the Borough of Bound Brook’s franchise term, which shall be perpetual and the use of surrounding streets pursuant to N.J.S.A. 48:3-11 and 48:3-15, which is limited by a statute to 50 years.

According to the petition, NJAWC would continue the rates that were charged by the Borough of Bound Brook for wastewater service. The rates to the customers of the Borough of Bound Brook’s system will be maintained at the current rates for a minimum of two (2) years and may increase by no more than 3% each year for the next three (3) years. NJAWC would propose to increase rates in accordance with the agreement of sale following the initial two-year rate freeze beginning at the date of the closing in a future base rate case. At that time, NJAWC would reflect in its tariff the respective annual increase on the anniversary date of each year the respective rate.

On June 15, 2022, a duly noticed municipal consent hearing on the petition was held via teleconference. David Schmitt, Esq., Legal Specialist, presided over the hearing at which representatives of NJAWC, the New Jersey Division of Rate Counsel (“Rate Counsel”), and Board Staff (“Staff”) appeared. No members of the public appeared at the hearing or filed written comments.

Rate Counsel filed comments on June 30, 2022 indicating that it did not object to the

determination requested in this matter.

Staff recommended that the Board approves the municipal consent, Ordinance No. 2022-08, adopted May 10, 2022, granted to NJAWC by the Borough of Bound Brook for the expansion of NJWAC's service territory to include customers in the Proposed Franchise Area.

VI. RELIABILITY AND SECURITY

A. Docket Nos. ES22060393K, ES22060394K, ES22060395K, GS22060396K, GS22060397K, GS22060398K, GS22060399K, GS22060400K, GS22060401K, and GS22060402K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 to 91.

BACKGROUND: This matter involved settlements of alleged violations of the Underground Facility Protection Act by both excavators and operators of underground facilities. This matter did not contain settlements involving catastrophic situations, death, or major property damage. The categories of infraction are failure to provide proper notice, failure to use reasonable care, and mismarking of facilities. The cases were settled in accordance with a penalty strategy, which escalates in relationship to aggravating factors, such as injury, property damage, fire, evacuation, road closure, and other public safety concerns, and provides disincentives for violations. There are 24 settlements which total \$72,000.00.

Staff of the New Jersey Board of Public Utilities ("Board") recommended that Board approve the settlements provided in the Appendix.

VII. CUSTOMER ASSISTANCE

There were no items in this category.

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

There were no items in this category.

After appropriate motion, the consent agenda was approved.

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

AGENDA

1. AUDITS

There were no items in this category.

2. ENERGY

A. Docket No. ER22010003 – In the Matter of the Board of Public Utilities – Federal Energy Regulatory Commission (FERC) Items for 2022 – DOE Reference No. 6450- 01-P Notice of Intent and Request for Information Regarding Establishment of a Civil Nuclear Credit Program.

Ryann Regan, Office of Federal and Regional Policy, presented this matter.

BACKGROUND: On February 15, 2022, the Department of Energy published in the Federal Register a notice for intent and request for information regarding the establishment of a Civil Nuclear Credit (“CNC”) Program. The CNC Program will allocate \$6 billion at \$1.2 billion per year over the course of five (5) years to nuclear reactors that are at risk for shutting down due to economic conditions.

On March 8, 2022, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) submitted comments responding to the notice. On April 19, 2022 the Department of Energy opened the CNC Program for applications. The program, among other criteria, required that eligible applicants derive at least 50 percent of their operating revenue from the competitive market.

On June 17, 2022, the Department of Energy invited public comment on a proposed amendment to the guidance for the CNC Program. This change would change the 50 percent limit to an undefined material amount.

On June 27, 2022, Staff, on behalf of the Board, filed comments in opposition of the guidance amendments.

Staff recommended that the Board ratify the comments submitted on June 27, 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 Chivukula	Aye
	Commissioner Gordon	Aye

B. Docket No. ER22010003 – In the Matter of the Board of Public Utilities – Federal Energy Regulatory Commission (FERC) Items for 2022 – DOE Reference No. DOE_FRDOC_001-4401 Notice of Intent and Request for Information Regarding Establishment of a Transmission Facilitation Program.

Ryann Regan, Office of Federal and Regional Policy, presented this matter.

On May 12, 2022 the Department of Energy published in the Federal Register notice of intent and request for information regarding the establishment of a Transmission Facilitation Program. The Department of Energy established the program to facilitate transmission build out of projects in the nation's best interest that would not be built as big of capacity or at all without federal funding.

On June 13, 2022, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”), on behalf of the Board, submitted comments to the Department of Energy to offer New Jersey's perspective on the transmission Facilitation Program and the critical need for federal funding to support shovel-ready transmission projects, including New Jersey's offshore wind grid currently being developed in the region.

Staff recommended that the Board to the notice of intent and request for information.

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

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

C. Docket No. ER22010003 – In the Matter of the Board of Public Utilities – Federal Energy Regulatory Commission (FERC) Items for 2022 – FERC Docket No. AD21-15- 000 – Joint Federal-State Task Force on Electric Transmission.

Ryann Regan, Office of Federal and Regional Policy, presented this matter.

On June 17, 2021, the Federal Energy Regulatory Commission (“FERC”) issued an order establishing the Joint Federal-State Task Force (“Task Force”) on electric transmission and empowering it to conduct hearings on multiple transmission-related topics.

On November 10, 2021, the Task Force held its first public meeting where it discussed incorporating State policies into regional transmission planning. On February 16, 2022, the Task Force held its second public meeting which focused on cost allocation. On May 6, 2022, the Task Force held its third public meeting where it considered potential reforms to the generation interconnection process.

Following the third meeting, FERC issued a notice inviting comments on topics discussed at its third meeting. Specifically, the notice invited comments on what potential changes to the generation interconnection process that could help alleviate the current interconnection backlogs across the country and whether and how such changes to cost allocation methodology for interconnection-related transmission upgrades could be made.

On June 1, 2022, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”), on behalf of the Board, submitted comments in response. The comments advocated for the interconnection process reforms that would expedite the interconnection process, more fairly allocate the cost of the transmission system upgrades needed to interconnect new generation resources, and enable New Jersey to meet its Clean Energy goals more quickly and at lower total costs to its ratepayers.

Staff recommended that the Board ratify the comments filed by Staff with FERC on June 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 Chivukula	Aye
	Commissioner Gordon	Aye

D. Docket No. GR21060881 – In the Matter of the Petition of South Jersey Gas Company to Revise the Level of Its Basic Gas Supply Service (“BGSS”) Charge and Conservation Incentive Program (“CIP”) Charge for the Year Ending September 30, 2022.

Paul Lupo, Division of Water and Energy, presented this matter.

BACKGROUND: On June 1, 2021, South Jersey Gas Company (“SJG”) filed its annual Basic Gas Supply Service (“BGSS”) petition, seeking approval to modify its periodic BGSS, Balance and Service Clause and Conservation Incentive Program (“CIP”) rates. Combining the BGSS and Balance and Service Recovery with the CIP recovery resulted in an increase of \$47.3 million including taxes.

After the filing, additional details became available related to the pending Columbia base rate case which would result in a proposed recovery increase of \$22.3 million including taxes.

In November 2021, the New Jersey Board of Public Utilities (“Board”) issued an order authorizing SJG to modify its periodic BGSS, Balance and Service Clause and CIP rates on a provisional basis effective December 1. On November 18, 2021, SJG filed a notice with the Board of its intent to self-implement a periodic BGSS rate adjustment based upon a 5 percent increase of the monthly bill of a typical residential customer using 100 therms to become effective December 1, 2021.

The parties executed a stipulation requesting that the Board approve the provisionally approved BGSS, Balance and Service Clause and CIP rates on a final basis, which was subsequently approved by Administrative Law Judge Irene Jones. As a result of the stipulation, there would be no additional bill impact on ratepayers.

Board Staff (“Staff”) recommended that the Board issue an order adopting the initial decision and stipulation and directing SJG to file revised tariffs by July 29, 2022.

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

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

E. Docket No. GR21020480 – In the Matter of the Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Bristol Myers Squibb.

Paul Lupo, Division of Water and Energy, presented this matter

BACKGROUND: In September 2020, pursuant to Public Service Electric and Gas Company's ("PSE&G's") Rate Schedule Contract Services Gas ("CSG"), Bristol Myers Squibb sought a discounted rate from PSE&G for transportation service for a period of 20 years on the basis of the "Other Considerations" provision as set forth in PSE&G's gas service tariff.

On February 16, 2021, PSE&G filed a petition seeking approval of a Rate Schedule CSG Transportation Service Agreement between PSE&G and Bristol Myers Squibb. On March 3, 2022, PSE&G filed an amended petition seeking approval of CSG Amended Service Agreement following a bypass analysis conducted with Bristol Myers Squibb. The amended petition also sought a protective order and exemption from public disclosure of confidential information, specifically the volumes of usage contained in the amended agreement.

By letter dated June 15, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") indicated that it had no objection to the approval of the service agreement as reflected in the amended petition.

Staff of the New Jersey Board of Public Utilities ("Board") ("Staff") recommended that the Board issue an Order approving the amended service agreement between PSE&G and Bristol Myers Squibb. Staff further recommended that the issue of confidential treatment of certain information that is claimed to be commercially sensitive or proprietary be decided by the Board's record's custodian pursuant to the Board's rules. Until the decision is rendered, Staff recommended that such information continue to be treated as confidential.

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

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

F. Docket No. ET21101152 – In the Matter of the Letter Petition of Atlantic City Electric Company Requesting Approval of its Rider Remote Net Energy Metering (“RNEM”) Tariff Pursuant to N.J.A.C 14:1-5.11 and N.J.A.C. 14:3-1.3.

Paul Lupo, Division of Water and Energy, presented this matter.

BACKGROUND: On October 1, 2021, Atlantic City Electric Company (“ACE”) filed a letter petition pursuant to N.J.A.C. 14:1-5.11 and 14:3-1.3 seeking approval of its proposed rider remote net metering (“RNM”) tariff. Subsequent to the letter petition being filed, the parties met on several occasions to discuss the company's proposed RNM tariff.

On March 7, 2022, ACE submitted a revised RNM tariff. On June 15, 2022, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) provided ACE with non-substantive language changes to the revised RNM tariff, which ACE agreed to incorporate.

On June 24, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board noting the addition to ACE’s revised RNM tariff as previously provided by Staff to the company on June 15 more accurately reflects the consensus reached by the parties.

Staff recommended that the Board issue an order approving the proposed changes to ACE’s RNM tariff, subject to incorporation of the revision enumerated in Rate Counsel’s June 24 correspondence. Staff further recommended that the Board direct ACE to file revised tariffs consistent with the order by July 30, 2022 to become effective on August 1, 2022.

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

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

3. CABLE TELEVISION

There were no items in this category.

4. TELECOMMUNICATIONS

A. Docket Nos. BPU TC17091015 and OAL PUC 01597-2018 – In the Matter of Business Automation Technologies, Inc. d/b/a Data Network Solutions, Petitioner v. Verizon New Jersey, Inc., Respondent.

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

BACKGROUND: This agenda item involved review by the New Jersey Board of Public Utilities (“Board”) of an initial decision in resolving a multifaceted billing dispute between Business Automation Technologies, doing business as Data Network Solutions (“DNS”), and Verizon New Jersey (“Verizon”).

DNS is a competitive local exchange carrier (“CLEC”) that was authorized by the Board in 2003 to provide telecommunication services within the State. DNS entered into an interconnection agreement (“ICA”), with Verizon, an incumbent local exchange carrier (“ILEC”) which agreement was approved by the Board in 2004. The ICA provides the terms under which DNS interconnects with Verizon's network in order to provide service to DNS's customers. Such agreements are governed by the Federal Telecommunications Act of 1996, which requires Board approval and invests the Board with the authority to determine disputes.

In September 2017, DNS filed a petition with the Board contesting various billing charges and alleging certain billing practices by Verizon were in violation of the terms of the ICA. Following unsuccessful informal settlement discussions, the matter was transmitted to the New Jersey Office of Administrative Law for hearings as a contested case in January 2018 and assigned to Administrative Law Judge (“ALJ”) Tricia Caliguire. Following extensive discovery and motion practice and unsuccessful settlement discussions, hearings were held for several days spanning from September 2020 to April 2021, where testimony was heard from witnesses from both parties.

Following the end of the hearings, post hearing briefs and submissions were filed by both parties from August through December of 2021. On January 28, 2022 ALJ Caliguire issued her Initial Decision in this matter. Both parties filed exceptions and reply exceptions with the Board and the Board approved several extension requests necessitated by the multifaceted issues in the petition and the voluminous record.

The petitioner raised several billing issues, including disputing a \$39,386.00 past due balance claimed by Verizon and missing credits due to DNS, improper late payment charges, improper federal and state taxes and regulatory surcharges, and improper charges for services related to different types of trunks. DNS also claimed Verizon's actions, such as refusing to honor reduced price offers and/or blocked orders and the prices listed in the ICA; failure to properly follow the dispute resolution process; and improper institution of an embargo preventing orders by DNS violated various provisions of the ICA, including provisions requiring good faith between the parties as well as the covenant of good faith and fair dealing imposed upon parties to a contract under state and federal law.

Based on the record, the testimony and evidence presented, including the credibility of the witnesses, ALJ Caliguire made several findings in her initial decision resulting in the

following conclusions. One, DNS failed to prove its allegations against Verizon regarding incorrect billing and credits and is liable for the \$39,386.00 in charges. Two, Verizon violated the good faith provisions of the ICA and the covenant of good faith and fair dealing under New Jersey common law with respect to the imposition of the late payment charges and its failure to exercise due diligence to support changes to certain trunk billing charges. With respect to all other claims raised by DNS, ALJ Caliguire found that they failed to meet their burden of proof and they should be dismissed.

Board Staff (“Staff”) reviewed the voluminous record of the proceeding and found ALJ Caliguire’s decision is consistent with the evidence provided and recommended the Board adopt the Initial Decision in its entirety. DNS is therefore liable to Verizon for the \$39,386.00 in past due charges. DNS may pursue damages against Verizon regarding the findings of violation with respect to the good faith provisions of the ICA in the appropriate legal forum.

Staff recommended adoption of the Initial Decision.

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

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

5. WATER

A. Docket Nos. BPU WR22010018 and OAL PUC 00535-2022N – In the Matter of the Joint Petition of Montague Water and Sewer Companies for an Increase in Rates and Charges for Water Service.

Mike Kammer, Director, Division of Water and Energy, presented this matter.

BACKGROUND: On January 14, 2022, Montague Water Company (“Montague Water”) and Montague Sewer Company (“Montague Sewer”) filed a joint petition seeking rate increases in the base rates and tariff charges for the water and waste water service. The requested water rates were designed to increase revenues from metered water service by approximately \$400,000.00 or approximately 97 percent. With respect to wastewater, the requested increase for waste water service was approximately \$212,000.00 or approximately 89 percent above the present revenues.

The matter was transmitted to the New Jersey Office of Administrative Law for hearings as a contested case and was ultimately assigned to Administrative Law Judge (“ALJ”) the Irene Jones. Montague Water serves approximately 772 water customers and Montague Sewer serves approximately 268 wastewater customers all within Montague Township in Sussex County.

Montague Water, Montague Sewer, the New Jersey Division Rate Counsel, and Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) executed a stipulation of

settlement agreeing to an overall increase in water revenues of approximately \$399,000.00 and approximate overall increase in waste water revenues of approximately \$204,000.00, which would be implemented in three (3) phases. The stipulation agrees that 40 percent of the agreed upon rate increase would be implemented upon approval by the Board, 40 percent of the agreed upon increases would be implemented on the first anniversary of the initial rate increase, and 20 percent of the agreed upon rate increases would be implemented on the second anniversary of the initial increase. ALJ Jones issued an initial decision recommending that the Board adopt the stipulation.

Staff recommended that the Board adopt the Initial Decision and stipulation for service rendered on and after the effective date of the Board Order.

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

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

B. Docket Nos. BPU WO20110723 and OAL PUC 05592-21 – In the Matter of Petition of 68-72 Franklin Place, LLC and the Village Courtyard Condominium Association, Petitioner v. New Jersey American Water Company, Respondent.

Mike Kammer, Director, Division of Water and Energy, presented this matter.

BACKGROUND: On November 19, 2020 the Village Court Condominium Association and 68-72 Franklin Place, LLC (“Franklin Place”), which is the developer of the condominiums, filed a complaint alleging improper charges by New Jersey American Water Company (“NJAWC”). Franklin Place further alleged that they never should have been required to install and/or be billed for an eight-inch meter to this 12-unit condominium unit. The matter was transmitted to the New Jersey Office of Administrative Law for hearings and was assigned to Administrative Law Judge (“ALJ”) Gail Cookson.

NJAWC filed a motion for summary decision on December 17, 2021 and ALJ Cookson held oral argument on the motion in March of 2022, at which time she also directed that Franklin Place and NJAWC file briefs. Those briefs were filed on May 4, 2022 and the record closed on that date. Franklin Place opposed the motion for summary decision and argued that a plenary hearing was necessary because there are genuine issues of material fact in dispute.

The ALJ issued an initial decision granting NJAWC's motion for summary decision on May 4, 2022 and on June 8, 2022, the New Jersey Board of Public Utilities (“Board”) approved a 45-day extension until July 22, 2022 in order to give Board Staff (“Staff”) time to review the extensive record in this proceeding.

Staff recommended that the Board adopt ALJ Cookson's initial decision and dismiss Petitioner's petition with prejudice.

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

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

6. RELIABILITY AND SECURITY

A. Docket No. ES21030639 – In the Matter of Allegations of Violations of Law by Elizabethtown Gas Company with Respect to an Incident at 107 King George Road in Pennington, NJ on October 30, 2019.

Ann Lang, Division of Reliability and Security, presented this matter.

BACKGROUND AND DISCUSSION:

On October 30, 2019 at 107 King George Rd. in Pennington, New Jersey, a natural gas incident occurred that is within the jurisdiction of the New Jersey Underground Facilities Protection Act, which the New Jersey Board of Public Utilities ("Board") administers.

The excavator, William Perrine Landscape Services, struck a gas line belonging to Elizabethtown Gas Company ("ETG") during excavation with a Kubota mini excavator. The damage to the gas line resulted in an explosion and fire that destroyed the single family residence.

The Board, through the Bureau of One-Call, supervises and enforces the One-Call damage prevention system. Pursuant to N.J.S.A. 48:2-86(c), violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties.

In determining the amount of the penalty, or the amount agreed upon in compromise, several factors are considered including the nature, circumstances and gravity of the violation; the degree of the violator's culpability; any history of prior violations; the prospective effect of the penalty on the ability of the violator to conduct business; any good faith effort on the part of the violator in attempting to achieve compliance; the violator's ability to pay the penalty; and other factors the Board determines to be appropriate.

Board Staff ("Staff") conducted a detailed and comprehensive investigation of the incident and reviewed and evaluated the compliance of both the excavator and operator with the Underground Facility Protection Act. The review included procedures, documents, actions and other circumstances surrounding the incident.

Staff and ETG engaged in settlement negotiations and executed a stipulation of settlement, wherein ETG agreed to pay a monetary penalty of \$250,000 and agreed to

study the use of LiDAR and similar technology in the investigation of incidents involving underground facilities. The findings of the study will be shared with the Board.

Staff recommended approval of the Stipulation.

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

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

B. Docket No. ES21030640 – In the Matter of Allegations of Violations of Law by William Perrine Landscape Services, Inc. with Respect to an Incident at 107 King George Road in Pennington, NJ on October 30, 2019.

Ann Lang, Division of Reliability and Security, presented this matter.

BACKGROUND AND DISCUSSION:

On October 30, 2019 at 107 King George Rd. in Pennington, New Jersey, a natural gas incident occurred that is within the jurisdiction of the New Jersey Underground Facilities Protection Act, which the New Jersey Board of Public Utilities (“Board”) administers.

The excavator, William Perrine Landscape Services, struck a gas line belonging to Elizabethtown Gas Company during excavation with a Kubota mini excavator. The damage to the gas line resulted in an explosion and fire that destroyed the single family residence.

The Board, through the Bureau of One-Call, supervises and enforces the One-Call damage prevention system. Pursuant to N.J.S.A. 48:2-86(c), violations involving a natural gas or hazardous liquid underground pipeline or distribution facility are subject to civil penalties.

In determining the amount of the penalty, or the amount agreed upon in compromise, several factors are considered including the nature, circumstances and gravity of the violation; the degree of the violator’s culpability; any history of prior violations; the prospective effect of the penalty on the ability of the violator to conduct business; any good faith effort on the part of the violator in attempting to achieve compliance; the violator’s ability to pay the penalty; and other factors the Board determines to be appropriate.

Board Staff (“Staff”) conducted a detailed and comprehensive investigation of the incident and reviewed and evaluated the compliance of both the excavator and operator with the Underground Facility Protection Act. This review included procedures, documents, actions and other circumstances surrounding the incident.

William Perrine Landscape Services separately engaged in settlement negotiations with Staff and executed a stipulation of settlement, wherein they agreed to pay a monetary penalty of \$50,000.

Staff recommended approval of the stipulation.

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

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

7. CUSTOMER ASSISTANCE

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.

Docket No. AX21070998 – Notice of Substantial Change Upon Adoption to Proposed Amendment

Jacqueline Galka, Division of Water & Energy, presented this matter.

BACKGROUND AND DISCUSSION: Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) proposed final readoption with substantial changes to the Board’s existing rules contained within the New Jersey Administrative Code N.J.A.C. 14:3, et seq, All Utilities. In addition, in a response to comments, Staff proposed one change to the rule as originally proposed as substantial and, therefore, cannot be made upon adoption. For this change, Staff requested approval of a notice of proposed substantial change upon adoption to proposed amendment. The notice would be published in the New Jersey Register, stakeholders will be given the opportunity to comment on this substantial change, and the change be brought back to the Board for approval. These rules provide basic requirements for all utilities regulated by the Board including water, waste water, 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.

The rule proposed at N.J.A.C. 14:3 was published in the New Jersey Register on February 22, 2022 and was set to expire on August 10, 2022.

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

The Board received comments from the stakeholder community through April 23, 2022 and responded to each of the comments. The notice of adoption document contains a summary of all comments and Staff’s responses.

In summary, Staff recommended two (2) items for the Board to vote on. For the first vote, Staff recommended that the Board approve the final readoption of this chapter with substantial and technical changes with the rules becoming effective upon publication in the New Jersey Register. As part of this item, Staff recommended that three (3) non-substantial changes to the original proposal be made upon adoption, which correct legal

references.

For the second vote, Staff recommended that, in response to comments, the Board approve the notice of proposed substantial change upon adoption to proposed amendment N.J.A.C. 14:3-3A.1(d).

DECISION: After discussion, the Board adopted the recommendation of Staff as set forth above through two separate votes.

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

8. CLEAN ENERGY

A. Docket No. QO22010020 – In the Matter of Customer Relationship Management System for Benchmarking – Executive Session.

Phil Chao, Division of Clean Energy, presented this matter.

BACKGROUND: On May 23, 2018, Governor Phil Murphy signed the Clean Energy Act into law as P.L. 2018, c. 17. The law mandates that the Board “require the owner or operator of each commercial building over 25,000 square feet in the State to benchmark energy and water use for the prior calendar year using the United States Environmental Protection Agency’s Portfolio Manager tool.”

To implement New Jersey’s Building Energy and Water Benchmarking Program, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) requested Board approval to acquire and implement a Customer Relationship Management system to manage and analyze the data associated with the program, track the benchmarking submissions through the United States Environmental Protection Agency’s Energy Star Portfolio Manager tool, and provide a help desk to field questions, as well as process appeals and requests for exemptions, from building owners and operators of commercial buildings that are over 25,000 square feet.

Staff recommended that the Board authorize Staff to work with the New Jersey Department of Treasury to finalize and release a request for proposals for public bidding.

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

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

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

Sherri L. Golden

SHERRI L. GOLDEN
BOARD SECRETARY

Date: July 12, 2023