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Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
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CLEAN ENERGY AND ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>P.L.</u>)	ORDER DIRECTING THE
2018, <u>c.</u> 17 REGARDING THE ESTABLISHMENT OF)	UTILITIES TO ESTABLISH
ENERGY EFFICIENCY AND PEAK DEMAND)	ENERGY EFFICIENCY AND
REDUCTION PROGRAMS)	PEAK DEMAND
)	REDUCTION PROGRAMS
IN THE MATTER OF THE CLEAN ENERGY ACT OF)	
2018 – UTILITY DEMOGRAPHIC ANALYSIS)	
)	DOCKET NO. QO19010040
IN THE MATTER OF ELECTRIC PUBLIC UTILITIES)	
AND GAS PUBLIC UTILITIES OFFERING ENERGY)	
EFFICIENCY AND CONSERVATION PROGRAMS,)	DOCKET NO. QO19060748
INVESTING IN CLASS I RENEWABLE ENERGY)	
RESOURCES AND OFFERING CLASS I RENEWABLE)	
ENERGY PROGRAMS IN THEIR RESPECTIVE)	DOCKET NO. QO17091004
SERVICE TERRITORIES ON A REGULATED BASIS)	
PURSUANT TO N.J.S.A. 48:3-98.1 – MINIMUM FILING)	
REQUIREMENTS)	

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BY THE BOARD:

This Order directs each electric public utility and gas public utility in the State of New Jersey to establish energy efficiency (“EE”) and peak demand reduction (“PDR”) programs pursuant to the EE provisions of the Clean Energy Act of 2018.

INTRODUCTION

On May 23, 2018, Governor Murphy signed into law the Clean Energy Act of 2018 (“CEA” or the “Act”).¹ The Act calls for a significant overhaul of New Jersey’s energy systems while growing the economy, building sustainable infrastructure, creating well-paying local jobs, reducing carbon emissions, and improving public health to ensure a cleaner environment for current and future residents. The CEA plays a key role in achieving the State’s goal of 100% clean energy by 2050 by establishing aggressive energy reduction requirements, among other clean energy strategies. This action by the Governor came at a critical time in our global fight against climate change and set New Jersey on a path to once again be a leader in charting a course towards a greener future.

New Jersey faces significant threats from climate change and, more recently, the health and economic impacts of COVID-19; now, more than ever, EE will assume a vital role in the State’s response to both. EE helps reduce greenhouse gas (“GHG”) emissions and mitigate climate impacts while bolstering the economy, a necessary co-benefit during this global crisis. EE projects are labor intensive, and increased achievement of EE will greatly strengthen the job market. EE projects also reduce energy use and can reduce energy bills, allowing customers to use those funds elsewhere, including injecting them back into the economy. While EE already employs over 36,000 people in New Jersey, it ranks near the bottom of U.S. states in EE jobs per capita.² The robust goals of the CEA and this EE transition are expected to spur substantial growth in EE jobs. In addition to creating tens of thousands of green jobs, EE also provides long term benefits for participants, such as reducing utility bills and improving health, comfort, and safety. The EE framework recommended herein by the Staff (“Staff”) of the New Jersey Board of Public Utilities (“Board” or “BPU”) will chart a course towards achieving some of the highest EE savings in the country.

The CEA emphasizes the importance of EE and PDR and calls upon New Jersey’s electric and gas public utilities³ to play an increased role in delivering EE and PDR programs to customers. The Act requires each utility in the state to reduce the use of electricity and natural gas in its service territory. Specifically, the CEA directs the BPU to require that:

- (a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and
- (b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas usage in the prior three years within five years of implementation of its gas energy efficiency program.⁴

¹ P.L. 2018, c. 17 (N.J.S.A. 48:3-87.8 et al.).

² <https://e4thefuture.org/wp-content/uploads/2019/09/Energy-Efficiency-Jobs-in-America-2019.pdf>.

³ New Jersey’s electric and gas public utilities include Atlantic City Electric Company (“ACE”), Butler Power and Light Company (“Butler”), Elizabethtown Gas Company (“Elizabethtown”), Jersey Central Power & Light Company (“JCP&L”), New Jersey Natural Gas Company (“NJNG”), Public Service Electric and Gas Company (“PSE&G”), Rockland Electric Company (“RECO”), and South Jersey Gas Company (“SJG”) (collectively, “utilities”).

⁴ N.J.S.A. 48:3-87.9(a).

The CEA also notes in the same section of the Act that the Board may mandate reductions that exceed 2% of the average annual usage for electricity and 0.75% of the average annual usage for natural gas for the prior three years, pursuant to the market potential study until the reduction in energy usage reaches the full economic, cost-effective potential in each service territory, as determined by the Board.

EE is also one of the seven key strategies identified in New Jersey's 2019 Energy Master Plan⁵ ("EMP") and will play an essential role in meeting the State's long-term clean energy goals including advancing building electrification. Moreover, EE initiatives are one of the easiest and cheapest resources in our fight against the global climate crisis. EE programs are available for all sectors and offer a wide variety of targeted incentives for residents and businesses with varying needs throughout the state.

In addition to setting New Jersey on a path to 100% clean energy by 2050 as laid out in the EMP, New Jersey must meet targets set forth in the CEA in a way that is consistent with the principles expressed in both documents and several relevant Executive Orders. To this end, the EE transition is designed with the following primary objectives:

- Afford access to EE programs for all market segments and for all New Jersey residents and businesses, regardless of geographic location;
- Decrease energy burdens for all ratepayers, with a specific focus on increasing affordability for lower income customers and those living in environmental justice communities;
- Ensure that low- and moderate-income communities share the same level of access to the benefits associated with EE investments as wealthier communities;
- Increase accountability and reporting of spending and savings related to EE and peak demand reduction;
- Reduce costs for energy saved through reliable and consistent program delivery;
- Reduce administrative costs passed through to ratepayers; and
- Expand job opportunities and increased economic benefits of EE for New Jersey.

The CEA also calls for the Board to adopt programs that "ensure universal access to energy efficiency measures, and serve the needs of low-income communities," and the EMP establishes that the State's priorities in developing its statewide EE structure are affordability, equity, environmental justice, economic development, decarbonization, and public health.⁶ This framework for the next generation of EE programs seeks to reduce the inequity currently experienced by groups and individuals across New Jersey who disproportionately lack access to energy-efficient housing, appliances, and technologies. The lack of access is often reflected in a household's energy burden. Research has shown that the average low-income household devotes more than three times more of their income to energy bills than the average higher income household.⁷ Families who face higher energy burdens experience many negative long-term effects, a reality that has been exacerbated by the recent pandemic.

EE remains both an immediate and long term component of reducing energy costs and improving health and safety for all households. Moreover, EE must be integrated seamlessly with other government efforts to promote public health, safety, and comfort, including, but not limited to, weatherization, lead removal, improving household determinants of residents' health, and other

⁵ https://www.nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

⁶ *Id.*; N.J.S.A.48:3-87(g).

⁷ <https://www.energy.gov/eere/slsc/low-income-community-energy-solutions>

programs, and the Board is committed to fostering a more integrated approach. A holistic program that coordinates or combines the delivery of multiple services to New Jersey residents with lower barriers to entry can begin to address systemic inequities. New Jersey is in uncharted territory with the COVID-19 pandemic, and the impacts of this crisis are being felt more by those with existing significant energy burdens. Energy affordability, which can be improved through EE, is more important than ever; New Jersey needs clean and affordable energy for everyone.

New Jersey's next generation of EE will play a central role in rising to meet the challenge of the climate crisis while providing significant benefits to residents and businesses throughout the state and growing a clean energy workforce. In order to achieve the robust goals of the Act, Staff recommends a transition in the framework for EE, as laid out herein and as will be supported by anticipated future modifications, to continue New Jersey's path to 100% clean energy by 2050.

BACKGROUND

The Board began approving utility demand side management ("DSM") programs for energy conservation in the 1980s and adopted DSM regulations in 1991 that (1) required electric and gas public utilities to offer conservation, EE, and load management programs, known collectively as DSM programs; (2) provided incentives to initiate and implement programs; and (3) permitted cost recovery of the programs and recovery of the fixed cost portion of lost revenues due to the programs.

On February 9, 1999, the Electric Discount and Competition Act ("EDECA") restructured the electric and gas utility industries in New Jersey by authorizing the Board to permit competition in the electric generation and gas marketplace.⁸ EDECA, as amended, also directed the Board to undertake a comprehensive resource analysis ("CRA") of energy programs every four years; determine the appropriate level of funding for EE, plug-in electric vehicles ("EVs") and charging infrastructure, and Class I renewable energy ("RE") programs in consultation with the New Jersey Department of Environmental Protection; and determine, as a result of the CRA, the programs to be funded by a societal benefits charge ("SBC"), the utilities' level of cost recovery and performance incentives for existing and proposed programs, and whether the recovery of DSM costs may be reduced or extended.⁹ EDECA charged the Board with making these determinations while taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low-income customers, and eliminating subsidies for programs that could be delivered in the marketplace without electric public utility and gas public utility customer funding.¹⁰

Accordingly, in 1999, the Board initiated its first CRA proceeding. In 2001, the Board issued an order that set funding levels for EE and RE programs for the years 2001 through 2003.¹¹ The Board directed the utilities to administer the EE programs for one year and indicated that it would retain a consultant to assist in evaluating how best to continue the administration of the programs

⁸ P.L. 1999, c. 23 (N.J.S.A. 48:3-49 to -98).

⁹ N.J.S.A. 48:3-60(a)(3).

¹⁰ Id.

¹¹ In re the Filings of the Comprehensive Resource Analysis of Energy Programs Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, BPU Docket Nos. EX99050347 et al., Order dated March 9, 2001.

in the following years.¹² In 2002, the Board's consultant recommended that the utilities retain EE program administration. In 2003, the Board established the New Jersey Clean Energy Council, which recommended that the Board administer EE and RE programs, and established the New Jersey Clean Energy Program ("NJCEP") administered by the Board's Office of Clean Energy (now Division of Clean Energy or "DCE").

On January 13, 2008, P.L. 2007, c. 340 ("RGGI Act") was signed into law based on the New Jersey Legislature's findings that EE and conservation measures must be essential elements of the state's energy future and that greater reliance on EE and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and EE industries are essential to maximize efficiencies.¹³

Pursuant to Section 13 of the RGGI Act, codified at N.J.S.A. 48:3-98.1(a)(1), an electric or gas public utility may provide and invest in EE and conservation programs in its service territory on a regulated basis. Such investment in EE and conservation programs may be eligible for rate treatment approved by the Board, including a return on equity ("ROE"), or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas.¹⁴ Ratemaking treatment may include placing appropriate technology and program costs investments in the utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the Board.¹⁵ An electric or gas utility seeking cost recovery for any EE and conservation programs pursuant to N.J.S.A. 48:3-98.1 must file a petition with the Board.¹⁶

Currently, the State administers the following EE programs through NJCEP:

- Residential New Construction;
- Home Performance with ENERGY STAR;
- *WARMA*Advantage and *COOLA*Advantage (Residential HVAC);
- Energy Efficient Products;
- Community Energy Grants;
- Local Government Energy Audit;
- Direct Install;
- SmartStart (Prescriptive Commercial & Industrial);
- Custom Tailored Energy Efficient Pilot;
- Large Energy Users Program;
- Pay for Performance: Existing Buildings;
- Pay for Performance: New Construction; and
- Combined Heat and Power/Fuel Cell.

The State also administers the Comfort Partners program in conjunction with the utilities, working to offer free energy efficient upgrades to qualified low-income customers.

¹² This proceeding and the Board's consultant's evaluation did not include Butler.

¹³ N.J.S.A. 26:2C-45.

¹⁴ N.J.S.A. 48:3-98.1(b).

¹⁵ Id.

¹⁶ Id.

Many of New Jersey's electric and gas public utilities also offer a variety of EE programs that serve specific markets or customers not explicitly addressed by NJCEP programs or that enhance NJCEP offerings through additional incentives or alternative payback options.

As noted above, the CEA directed the Board to require each electric and gas public utility to develop EE and PDR programs that reduce the use of electricity and natural gas in its service territory. The Act further required the Board to complete a study to determine energy savings targets for each utility to achieve the full economic, cost effective potential for energy usage reductions and the timeframe to achieve those reductions.¹⁷ The Act further required the Board to adopt quantitative performance indicators ("QPIs") to establish utility targets for energy usage reduction and peak demand reduction.¹⁸ The Act required the Board to establish a stakeholder process to evaluate the economically achievable EE and PDR requirements, rate adjustments, QPIs, and the process for evaluating, measuring, and verifying energy usage reductions and peak demand reductions by the public utilities.¹⁹ As part of that stakeholder process, the Act directed the Board to establish an independent advisory group charged with studying the evaluation, measurement, and verification ("EM&V") process for EE and PDR programs.²⁰

On the same day that Governor Murphy signed the CEA into law, he also issued Executive Order 28 ("EO 28"), directing the creation of a new EMP for the state which "shall provide a comprehensive blueprint for the total conversion of the State's energy production profile to 100% clean energy sources on or before January 1, 2050, and shall further provide specific proposals to be implemented over the next 10 years in order to achieve the January 1, 2050 goal."²¹ The Board, in addition to implementing its responsibilities under the CEA, led the development of the *2019 EMP: Pathway to 2050*, which is the State's strategic vision for production, distribution, consumption, and conservation of energy in New Jersey.²² The State released the draft EMP in June 2019, which was followed by stakeholder review prior to release of the final EMP in January 2020.

PROCEDURAL HISTORY

Pursuant to the CEA at N.J.S.A. 48:3-87.9(b), on December 18, 2018, the Board authorized the DCE to enter into a contract with Optimal Energy, Inc. ("Optimal") to perform a study to determine the potential for EE and PDR for each utility in the state and to develop preliminary energy savings targets and quantitative performance indicators ("QPIs") for electricity and natural gas usage reduction, known as the *Energy Efficiency Potential in New Jersey* study ("EE Potential Study").²³

On May 28, 2019, following four stakeholder meetings regarding the EE Potential Study, the Board adopted the energy savings targets and QPIs as preliminary²⁴; approved establishment of

¹⁷ N.J.S.A. 48:3- 87.9(b).

¹⁸ N.J.S.A. 48:3- 87.9(c).

¹⁹ N.J.S.A. 48:3- 87.9(f)(1).

²⁰ Id.

²¹ Exec. Order No. 28 (May 23, 2018), 50 N.J.R. 1394(b) (June 18, 2018), ¶ 3.

²² Id. at ¶ 1.

²³ In re Approval of Contract for Energy Efficiency Technologies Research and Studies, BPU Docket No. QO18121302, Order dated December 18, 2018; this study did not include Butler.

²⁴ In re the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak

the Energy Efficiency Advisory Group (“EEAG”) to participate in an ongoing stakeholder process related to the development of New Jersey’s next generation of EE and PDR programs; and directed Staff to work with the EEAG in a stakeholder process to further refine the framework, issues, and details of program design for the Board’s further consideration.²⁵

On October 7, 2019, the Board directed the utilities to develop a joint request for proposals (“RFP”) to procure a consultant to perform the demographic analysis required by the Act at N.J.S.A. 48:3-87.9(f)(2).²⁶ The Board adopted Staff’s recommendations regarding the study process and minimum technical requirements of the RFP. The purpose of the analysis was to determine if all utility customers are able to participate fully in implementing energy efficiency measures, identify market barriers that prevent such participation, and make recommendations for measures to overcome such barriers.

On May 1, 2020, in accordance with the Board’s October 7, 2019 Order, the utilities submitted the report and microdata set resulting from the demographic analysis to the Board Secretary, the New Jersey Division of Rate Counsel (“Rate Counsel”), and the EEAG.

Stakeholder Process

During the EE transition, Staff provided multiple opportunities for stakeholder input on a range of topics.

After proper notice, the Board held a public stakeholder meeting on February 1, 2019 and accepted written comments through February 15, 2019 on best practices in the implementation of EE and PDR programs; the terms, assumptions, and considerations used in the law; and the constitution of the EEAG.

Staff solicited input related to EE and PDR program administration at a public meeting on September 25, 2019 and invited stakeholders to provide written comments on that topic by October 4, 2019.²⁷

The Board solicited further input related to EE and PDR programs, specifically regarding market needs and barriers to adoption, at a public meeting on October 30, 2019 and invited stakeholders to provide written comments on that topic by November 6, 2019.²⁸

The Board solicited input related to the evaluation, measurement, and verification of these

Demand Reduction Programs and Energy Usage Reduction Targets and Quantitative Performance Indicators, BPU Docket Nos. QO19010040 and QO19050536, Order dated May 28, 2019 (Agenda Item 8C).

²⁵ In re the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and In the Matter of the Clean Energy Act of 2018 – Energy Efficiency and Peak Demand Reduction Programs and the Energy Efficiency Advisory Group, BPU Docket Nos. QO19010040 and QO19050547, Order dated May 28, 2019 (Agenda Item 8B).

²⁶ In re the Implementation of P.L. 2018, c.17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and In re the Clean Energy Act of 2018 – Utility Demographic Analysis, BPU Docket Nos. QO19010040 and QO1060748 (Agenda Item 8B)

²⁷ Public Notice: <https://nj.gov/bpu/pdf/publicnotice/Energy%20Efficiency%20Stakeholder%20Meeting.pdf>.

²⁸ Public Notice: https://njcleanenergy.com/files/file/public_comments/103019.pdf.

programs and associated energy savings, as well as about filing and reporting requirements, at two public meetings on December 18, 2019 and invited stakeholders to provide written comments on either one or both topics by January 17, 2020.²⁹

Additionally, the Board hosted two technical working group meetings on cost recovery, on October 31, 2019 and December 13, 2019, and invited stakeholders to provide written comments on the topic by November 14, 2019 and January 3, 2020, respectively.³⁰ Staff also hosted a public meeting on the topic of cost recovery on January 23, 2020, with the comment period open through February 6, 2020.³¹

Staff hosted a public meeting related to the application of utility targets on February 4, 2020, with the comment period open through February 7, 2020.³²

The extensive public input received throughout the EE transition process was of great value to Staff in understanding stakeholder perspectives and priorities; that input was instrumental in the formulation of three draft proposals, which were also released for public comment. Staff released the draft “Energy Efficiency and Peak Demand Program Administration Straw Proposal” on December 20, 2019 and accepted comments through January 17, 2020. Staff subsequently released two more draft proposals: the “Energy Efficiency Transition Cost Recovery Mechanism Draft” on January 22, 2020, which was discussed at the January 23, 2020 public meeting, with comments accepted through February 6, 2020; and the “Energy Efficiency Transition Application of Utility Targets Proposed Target, Metric, and QPI Structure Draft for Public Comment” on January 30, 2020. Staff solicited public input on the latter draft proposal at a public stakeholder meeting on February 4, 2020 and accepted comments through February 11, 2020.

Staff released the full “Energy Efficiency Transition Straw Proposal” (“Full Proposal”) on March 20, 2020, accepted comments at a public stakeholder meeting on April 1, 2020, and accepted written comments through April 13, 2020. On May 4, 2020, Staff hosted a public meeting on equity in EE consisting of two panel sessions and a presentation on the results of the demographic analysis and accepted written comments through May 15, 2020.³³

STAFF RECOMMENDATIONS

Staff reviewed and considered all stakeholder comments received throughout this process and used stakeholder input to develop and modify recommendations. Appendix A contains a comprehensive summary of stakeholder comments on the Full Proposal and Staff’s responses. Based on Staff’s review of recommendations from stakeholders and the EEAG, Staff herein

²⁹ Public Notice: <https://www.nj.gov/bpu/pdf/publicnotice/EE%20Stakeholder%20Mtg%20Notice%20.pdf>.

³⁰ Public Notice: <https://njcleanenergy.com/files/file/103119.pdf>; Public Notice: <https://www.nj.gov/bpu/pdf/publicnotice/12.13.19%20EE%20Cost%20Recovery-%20Technical%20Meeting%20Public%20Notice%20.pdf>.

³¹ Public Notice: https://njcleanenergy.com/files/file/public_comments/Cost%20Recovery%20Mechanism%20Proposal.pdf.

³² Public Notice: https://nj.gov/bpu/pdf/publicnotice/EE%20Utility%20Targets%20Stakeholder%20Notice%20Feb%204_updated%20Notice.pdf.

²⁰ Public Notice: <https://www.nj.gov/bpu/pdf/publicnotice/Equity%20Working%20Group%20Meeting%20Public%20Notice.pdf>.

proposes a framework for implementation of the next generation of New Jersey's EE and PDR programs. Staff presents the sections below as a distillation of Staff's recommendations.

Staff recommends that the State and utilities be held to the same standards of accountability and transparency as described below, wherever feasible – for example, regarding EM&V methods (including calculating net energy use reductions and assessing compliance with QPIs), the frequency and types of reporting, and open and competitive contracting.

PROGRAM ADMINISTRATION

Program Years

The CEA calls for the Board to approve utility EE and PDR programs no later than 30 days prior to the start of the energy year, which commences on July 1 of every year. Staff recommends that the utilities and State prepare three-year filings for the EE and PDR programs described below, for Board approval by May 1 and with each program year commencing on July 1 and ending on June 30 of the following year, in alignment with State fiscal years. The first six program years will be as follows:

PY1: July 1, 2021–June 30, 2022

PY2: July 1, 2022–June 30, 2023

PY3: July 1, 2023–June 30, 2024

PY4: July 1, 2024–June 30, 2025

PY5: July 1, 2025–June 30, 2026

PY6: July 1, 2026–June 30, 2027

For the commencement of utility-led EE and PDR programs, described below, Staff recommends that the Board direct the utilities to submit program filings compliant with the minimum filing requirements ("MFRs") by September 25, 2020, for approval by the Board by May 1, 2021 and implementation beginning July 1, 2021.

For subsequent program filings, Staff proposes that the utilities submit EE and PDR filings that are compliant with the MFRs by November 1 every three years for Board approval by May 1 of the following year. These filings are sometimes referred to as the "three-year filings" and are also described in the "Filing Requirements: Utility Program Filings" section below.

Utility-Led Programs

Demographic Analysis

Staff recommends that the Board accept the demographic analysis report and direct the utilities to utilize the demographic information about electric and gas utility customers across the state and in each utility service territory, as well as information regarding factors that contribute to customers' access to and participation in EE and PDR programs, to design programs that maximize access and participation by all customers in implementing EE and PDR measures.

Staff also recommends that the Board publish the demographic analysis report on DCE's website.

As also described in the “Triennial Review” section below, Staff recommends that the Board utilize the results of the demographic analysis to assist in establishing utility- and State-specific QPIs in subsequent years.

Utility Core Programs

Staff recommends that utilities administer a suite of core programs that serve the following sectors and are consistently available throughout the state:

- Residential – The program(s) should provide comprehensive EE opportunities for existing residential buildings; at a minimum, the program(s) should include EE incentives for whole home EE solutions, prescriptive incentives, and efficient products (including retail products, with a midstream product component and appliance rebates, a single statewide online marketplace with utility-specific interfaces, and appliance recycling).
 - Residential program(s) should include specific opportunities for moderate-income customers, such as additional programs or enhanced incentives within the existing programs.
 - Residential program(s) should also include enhanced incentives for low-income customers to access prescriptive EE incentives and EE products. To the greatest extent possible, these incentives should not compete with the Comfort Partners program described below in the “Co-Managed Program” section.
- Commercial and Industrial – The programs should provide EE opportunities for existing buildings, including hospitals, and including prescriptive rebates, custom measures, direct install, and whole building solutions. The programs should include specific opportunities that ensure access for small commercial customers. These programs will provide comprehensive opportunities for existing commercial and industrial buildings interested in whole building EE solutions, with the exception of large energy users (as defined by the State’s Large Energy Users Program (“LEUP”)), who have access to programs tailored to their specific needs.³⁴
- Multifamily – The standalone Multifamily programs should provide comprehensive opportunities for existing buildings, including prescriptive rebates, custom measures, and whole building solutions, with particular attention to effectively serving the affordable and/or other low- and moderate-income and/or subsidized housing sectors and minimizing/eliminating as many of the barriers to EE adoption in multifamily housing as possible.

The utilities should design core programs that assess whole building structures and systems and encourage customers to consider a holistic approach to EE. The programs should also provide opportunities for single or multiple prescriptive and/or custom EE measures, so that customers who are unable or unwilling to undertake whole building solutions are still able to increase efficiency.

The utilities should also develop programs that, where possible, incorporate energy controls and

³⁴ Note that Staff is not recommending that all large energy users be served through a State-administered LEUP. The LEUP is intended to incentivize large energy users to undertake comprehensive EE projects; entities eligible for the LEUP that wish to install less comprehensive measures would utilize a utility-administered C&I program. Staff also recommends developing a standardized definition of large energy users in conjunction with the utilities and other key stakeholders.

strategic energy management, reduce peak demand, incorporate strategies to change behavior, advance strategic electrification, provide opportunity for fuel switching, utilize heat pumps, and include design elements that promote the participation of all customers, regardless of income, annual usage, or other demographic characteristics.

Staff recommends that the utilities collaborate with Staff to develop program designs and requirements that are complementary to, and not competitive or overlapping with, the designs and requirements of State-administered or co-managed programs. It is critical that the utility-administered programs expand access to EE offerings and avoid redundant or competing offerings.

Staff further recommends that the utilities work with Staff to facilitate a public stakeholder process to gather public input on proposed core program design between June and September 2020, in advance of program filings due September 25, 2020. As noted above, PY1 programs will commence on July 1, 2021 for a three-year term.

Additional Utility Initiatives, Pilots, and Program Enhancements

In addition to developing and implementing core programs, Staff recommends that the Board allow utilities to propose additional initiatives and program enhancements as set out below. These initiatives can be developed collaboratively and filed by all utilities, developed and filed individually, or piloted in individual territories and eventually considered for adoption by other utilities as additional initiatives or core programs to be administered by some or all utilities. While these programs will be designed and filed by each utility, Staff encourages consistency where possible but recognizes that these programs may vary by territory, particularly in the short term.

Staff recommends that utilities propose PDR programs as mandatory additional utility-led initiatives.³⁵ These programs should utilize demand response strategies to manage customer energy usage during periods of high demand. These utility-specific PDR programs should be included in the utilities' filings and commence no later than PY4. Utilities may file these programs in the interim or as part of their second three-year plan filing (years 4–6 program filing). Staff recommends reevaluating PDR programs and other potentially required additional initiatives for inclusion as core programs in the future.

Consistency in Program Elements and Design Standards

Staff recommends that the utilities file individual program proposals but collaborate to consistently implement the utility core programs.

Coordinated program elements for utility core programs should include:

- Common forms for use by customers and contractors;
- Contractor requirements, open and competitive procurement protocols where feasible, and training; procurement protocols should include policies and practices (e.g., scoring systems) developed in collaboration with the Equity Working Group and Workforce

³⁵ A number of stakeholders commented on the benefits of energy storage to reduce peak demand. The Board is committed to exploring the use of storage as a means of reducing peak load but will address issues surrounding storage holistically as part of a separate docket. Staff recommends that utility programs looking to use storage to reduce peak demand should be deferred until the conclusion of the dedicated storage proceeding.

Development Working Group that encourage supplier diversity (including contractors and subcontractors) and contractor coaching/mentoring of diverse business enterprises;

- Customer and property eligibility requirements and processes, including alternative/automatic eligibility methods for low- to moderate-income customers (e.g., based on census tracts, environmental justice communities, Urban Enterprise Zones, etc.);
- Eligible measures;
- Incentive ranges;
- Incentive payment processes and timeframes;
- Customer and contractor engagement platforms;
- Data platforms and database sharing among program administrators, where appropriate; and
- Quality control standards and remediation policies.

Additionally, Staff recommends requiring the following common elements for both core programs and additional initiatives:

- Easy customer access to current and historic energy usage data, with reasonable protections from inappropriate release, with the data remaining the property of customers;
- On-bill and/or third-party, including locally-based third-party, financing options for qualified EE investments in utility programs; and
- Workforce development and job training partnerships and pipelines (e.g., with vocational institutions, community colleges, community-based organizations, non-profits, etc.) for EE jobs, including for local, underrepresented, and disadvantaged workers. Utilities should work in collaboration with the State and the Workforce Development Working Group to develop these elements for utility-led programs.

In areas where gas and electric service territories overlap, in addition to establishing programs that include agreed-upon program design standards, as described above, the utilities shall design a program structure that results in coordinated, consistent delivery of programs among all of the utilities and allocates costs and energy savings appropriately based on the fuel type(s) treated by EE measures. The utilities shall ensure that customers do not face confusion as a result of overlapping territories and can access both electric and gas measures simultaneously, where appropriate. For example, this may be done through a shared, statewide program coordinator.

Furthermore, Staff recommends adopting standardized definitions for all EE and PDR programs and related materials. The definitions for small commercial customers, low-income customers, moderate-income customers, large energy users, and other customer segments shall be developed in future conversations with the utilities and other key stakeholders.

Marketing

Staff recommends establishing a Marketing Working Group (“MWG”) (described in the “Proposed Stakeholder Groups” section below) and that the Board direct the utilities and Staff to engage in a collaborative effort in consistent branding, messaging, and promoting of all utility- and State-led programs, including in the provision of program materials in Spanish and other languages in addition to English. Staff shall leverage State resources to promote general awareness of EE and other clean energy opportunities in New Jersey while the utilities shall market specific programs and initiatives to customers in a more targeted fashion. The MWG will collaborate to

develop further guiding documents regarding branding, brand usage and style guides, and the responsibilities of various parties.

Flexibility

Staff recommends that utilities be permitted to make certain adjustments to utility-led programs according to the conditions below. Staff recommends that the utilities collaborate and coordinate on proposed changes and notify Rate Counsel and any parties to the utility filings of any requested changes to programs, budgets, or incentives. Furthermore, Staff recommends adding a requirement that no shift within or between sectors can result in a program being terminated. Staff also recommends revisiting this structure after the first triennial review period (please see the “Triennial Review” section below) to make modifications as necessary.

- Sectors shall be defined as:
 - Residential
 - Commercial & Industrial
 - Multifamily
 - Pilot
- The addition of new programs, discontinuation of existing programs, or modifications to existing program structures will require Board approval.
- Budget adjustments:
 - Each utility can shift its program budget(s) for programs within the same sector up to 25% of the individual program’s total budget with Staff notification, 25–50% with Staff approval, and over 50% with Board approval.
 - Each utility can shift budgets between or among sectors up to 5% of individual utility sector budgets with Staff notification, 5–10% with Staff approval, and over 10% with Board approval.
 - Requests for budget adjustments within the three-year program filing necessitating Staff approval shall be responded to within 30 days. In addition, Rate Counsel may object within 30 days, which will also trigger Staff review within 30 days of Rate Counsel’s objection. Otherwise, if there is no response from Rate Counsel or Staff within 30 days, those requests will be automatically granted. Staff recommends that Staff retain the right to reject shifts requiring Staff notification.
- Incentive adjustments
 - Core programs: As mentioned previously, the utilities shall propose incentive ranges as common elements for core programs within which they can adjust incentives as needed with Staff notice; any adjustments outside the established range requires Staff approval.
 - Additional utility-led initiatives: Utilities can decrease incentives for additional utility-led initiatives with Staff notification; increase incentives up to 50% of the originally-approved incentive amount with Staff notification; and increase incentives over 50% of the originally-approved incentive amount with Staff approval.

- Requests for incentive adjustments necessitating Staff approval shall be responded to within 15 days. In addition, if Rate Counsel objects within 15 days, Staff will also review within 15 days of Rate Counsel's objection. Otherwise, if there is no response from Rate Counsel or Staff within 15 days, those requests will be automatically granted. Staff recommends that Staff retain the right to reject shifts requiring Staff notification.
- Staff will explore opportunities for a low income spending formula or minimum spending threshold with input from stakeholders during the program design stakeholder process.

State-Led Programs and Initiatives

State Programs

Staff recommends that the State, through the DCE at the BPU, administer a series of complementary programs serving the following market sectors or addressing the following areas:

- Residential – new construction;
- Commercial and Industrial – new construction and existing large energy users, not including hospitals, pursuing comprehensive projects via the LEUP;
- Combined heat and power (“CHP”) / fuel cell projects;
- Multifamily – new construction;
- State and Local Government – Local Government Energy Audits (“LGEA”), Energy Savings Improvement Program (“ESIP”), state facilities (in collaboration with the BPU's State Facilities Services and the New Jersey Department of Treasury's Division of Property Management & Construction), and coordination among state agencies and other entities (including to address health and safety barriers for low- to moderate-income customers); and
- Energy codes and standards in collaboration with the New Jersey Department of Community Affairs

Additional State Initiatives

In addition to implementing the programs above, Staff recommends that the State take the lead in the following areas:

- EE technology research and development;
- In collaboration with the New Jersey Department of Labor and Workforce Development, other state agencies, the utilities, the Workforce Development Working Group, and other entities, as applicable, the development of statewide workforce development pathways, training, coaching/mentoring, and other initiatives, including for underrepresented and disadvantaged individuals, communities, and business enterprises;

- In collaboration with the New Jersey Department of Education, public education in K–12 schools, with a focus on high schools, including EE and PDR curricula; and
- Community energy planning grants.

Co-Managed Program

Staff recommends that the State and the utilities continue to co-manage the Comfort Partners program, which provides EE upgrades to low-income households at no cost to homeowners. Staff recommends that the DCE and the utilities develop three-year program plans for these co-managed programs and submit joint filings with the Board as part of the State's annual budget process.

Staff recommends that the Comfort Partners program work with the Equity Working Group to continue to develop and implement procurement protocols that encourage supplier diversity (including contractors and subcontractors) and with the Workforce Development Working Group regarding contractor coaching/mentoring of diverse business enterprises.

Pursuant to the Board's January 29, 2014 Order,³⁶ Staff recommends that the utilities continue to have budget flexibility for this program based on provisions that allow Staff to approve the following budget changes, provided that they effectively work with other program funding formulas:

- Funds may be reallocated between utilities and line items within the Comfort Partners program provided that the overall Board-approved Comfort Partners program budget remains unchanged and the overall statewide administrative costs for the Comfort Partners program are not increased.
- Up to 10% of the Comfort Partners program budget may be reallocated within the program, among utilities and/or line items, during any 60-day period of time.
- The Comfort Partners program budget shall not be reduced by more than 25% within any 180-day period of time.

In addition to the above-stated changes which are eligible for Staff approval, the utilities will continue to be able to manage the individual contractor budgets within their territories at their discretion. Board approval shall be required for any further budget changes.

Comfort Partners will continue to have its own program logo and style guide, but program managers will participate in the MWG and, as applicable, Comfort Partners marketing strategies will be consistent with those of the larger MWG.

Core Program Cost Guidelines

Staff worked with Optimal to develop cost to achieve guidelines for utility core programs at the portfolio level. The analysis began by mapping EE and PDR programs from Massachusetts and Rhode Island, which are states that have achieved energy use reductions comparable to the

³⁶ In re the Clean Energy Programs and Budget for Fiscal Year 2014; Revised Fiscal Year 2014 Budget; and Delegation of Limited Budget Authority, BPU Docket No. EO13050376V (Order dated February 4, 2014).

target reductions established in New Jersey, to the programs that New Jersey intends to implement. Budgets and savings in these states were scaled using past performance and future plans in order to align with New Jersey’s makeup of electric and gas load by the residential and commercial/industrial sectors. The guidelines were determined by taking annual dollars per MWh or therms from the referenced programs and multiplying them by the sector-level MWh and therm projections needed to attain the savings targets in New Jersey.

This analysis results in scenarios that will allow New Jersey to achieve the benchmark PY5 savings targets of 2.15% of electric usage and 1.10% of gas usage and provides guidance regarding appropriate program costs. The costs and savings for PY1–4 are based on the PY5 target and on the ramp up of savings from PY1 to PY5 in accordance with the values in the EE Potential Study.

Based on Optimal’s analysis, Staff does not expect costs to achieve to change significantly over time but acknowledges that costs may be higher in the early years of implementation. Staff therefore recommends that reasonable utility costs for core programs at a portfolio level should fall within 10% of the values described in the table below on a cost per net energy unit saved basis in order to scale based on program and utility size and also to provide some flexibility in the event that costs are higher in the earlier years. Staff suggests that these cost to achieve ranges will be useful in evaluating the reasonableness of proposed costs to achieve energy savings and recommends that utilities must provide justification as part of program filings for proposing costs that vary from the values by more than 10%.

Staff offers these guidelines to help utilities to develop their core program budgets, which will be based on utility-specific energy savings goals. While annual budgets will vary, the cost to achieve guidelines will remain constant as they are per unit values. Staff also notes that these guidelines are presented on the basis of annual savings, as distinguishable from costs to achieve that are presented on the basis of lifetime savings.

As part of its review of utilities’ annual cost recovery petitions, the Board will also continue to review specific utility costs to determine whether they are reasonable and prudent.

Staff notes that these guidelines for core program costs are separate from the benefit-cost analysis further described in the “EM&V: Benefit-Cost Analyses” section below, which will be used to evaluate whether programs achieve the required benefit-to-cost ratio of 1.0 or greater at the portfolio level.

Cost to Achieve Electric Savings

	Cost to Achieve (\$/Net Annual kWh saved)
State-Administered Programs	
Commercial & Industrial	\$0.31
Residential	\$0.71

	Cost to Achieve (\$/Net Annual kWh saved)
Utility-Administered Programs	
Commercial & Industrial	\$0.37
Residential	\$0.32
Multifamily	\$1.21

	Cost to Achieve (\$/Net Annual kWh saved)
Co-Managed Programs	
Low Income	\$2.10

Cost to Achieve Gas Savings

	Cost to Achieve (\$/Net Annual Therm saved)
State-Administered Programs	
Commercial & Industrial	\$3.86
Residential	\$6.31

	Cost to Achieve (\$/Net Annual Therm saved)
Utility-Administered Programs	
Commercial & Industrial	\$4.13
Residential	\$8.69
Multifamily	\$18.69

	Cost to Achieve (\$/Net Annual Therm saved)
Co-Managed Programs	
Low Income	\$28.37

Program Funding

Staff recommends that utility-administered program costs associated with operations and maintenance (“O&M”) be expensed annually, whereas program investments will be amortized over time, as explained in more detail in the “Cost Recovery” and “Annual Compliance and Cost Recovery Petitions” sections below. Utilities must offer electric savings associated with EE investment into the capacity and energy markets operated by PJM Interconnection, LLC, (“PJM”), as explained in more detail in the “Cost Recovery: Energy As a Resource” section below.

State-administered and co-managed programs will be implemented using SBC funds, which are collected by utilities through their rates. The State will also continue to look to the U.S. Department of Energy for additional funding in future program cycles.

APPLICATION OF UTILITY TARGETS

The CEA requires the Board to adopt electric and natural gas EE programs that ensure investment in cost-effective EE measures, ensure universal access to EE measures, and serve the needs of low-income communities.³⁷ The CEA requires the Board to adopt QPIs for each electric and gas public utility that establish reasonably achievable targets for energy usage and peak demand reductions.³⁸ Moreover, the CEA calls for reductions in the use of electricity and natural gas until the reduction in energy usage reaches the full economic, cost-effective potential in each service territory, as determined by the Board.³⁹

³⁷ N.J.S.A. 48:3-87(g) and (h).

³⁸ N.J.S.A. 48:3-87.9(c).

³⁹ N.J.S.A. 48:3-87.9(a).

Also, the CEA states that programs in the public interest – including, but not limited to, those that benefit low-income customers or promote emerging EE technologies – may be appropriate to include in program portfolios even if they have a benefit-to-cost ratio of less than 1.0.⁴⁰

Finally, consistent with past practice, the CEA calls on the Board to determine the appropriate level of reasonable and prudent costs for each EE and PDR program.⁴¹

In short, the CEA calls for EE and PDR programs that achieve multiple policy goals, including, but not limited to, the achievement of full economic, cost-effective energy usage and peak demand reductions; universal access to EE measures; benefits for low-income communities and customers; the promotion of emerging EE technologies; and reasonable and prudent expenditures.

To position New Jersey to achieve its clean energy goals while simultaneously promoting the other core policy objectives above for cost-effectiveness, equitable access for all customers, benefits for low-income communities and customers, reasonable rates, and the achievement of comprehensive and long-lasting energy savings, Staff has developed the recommendations below for a set of utility and State metrics and targets.

Butler Power and Light Company

In consideration of the size of Butler relative to the other electric and gas public utilities, as well as the fact that the EE Potential Study did not consider preliminary QPIs for Butler, Staff recommends that the Board not require Butler to file EE and PDR program petitions at the same scale, along the same timeline, and according to the same requirements as applicable to the other public utilities. Staff's recommendations throughout the Order therefore do not apply to Butler at this time; however, Staff proposes to return to the Board with recommendations specific to Butler by December 31, 2020. Staff notes that customers throughout New Jersey, including within Butler's service territory, should have access to a full suite of EE program offerings and recommends consideration of partnerships which would provide Butler customers equitable access while limiting the administrative burden for Butler.

Energy Use Reduction Targets

In order to comply with the energy use reduction requirements of the CEA and to guide the development of EE programs, Staff recommends that the Board establish overall annual utility-territory specific energy use reduction targets. Staff further recommends that the Board establish separate utility and State targets that represent a breakdown in the overall utility-specific target based on the program administrator. State targets in each utility territory will represent the energy use reductions to be achieved by programs administered or sponsored by the State, including State programs, state building codes, and state appliance efficiency standards.

The CEA requires the Board to adopt QPIs according to a methodology that ensures that the utility's incentives or penalties are based on performance and take into account the growth in the use of EVs, microgrids, and distributed energy resources ("DER").⁴² The CEA also states that natural gas utilities shall not be required to include a reduction in natural gas used for DER such

⁴⁰ N.J.S.A. 48:3-87.9(d)(2).

⁴¹ N.J.S.A. 48:3-87.9(d)(3).

⁴² N.J.S.A. 48:3-87.9(c).

as CHP,⁴³ which Staff interprets to mean that the increased natural gas use that results from use of DER such as CHP will not count against savings claimed by gas public utilities. Staff therefore recommends that, in calculating net energy use reductions and assessing compliance with QPIs, the Board not include increases in electricity or natural gas use that result from the growth of EVs, microgrids, or DER, to the extent that those sectors result in increased use of electricity and/or natural gas by customers. Staff also recommends that the Board not include increases in electric consumption due to strategic electrification measures to align with the EMP.

Staff recommends that, in calculating net energy use reductions and assessing compliance with QPIs, utilities be permitted to apply energy savings from any other EE or PDR programs in their territory, as well as any other programs that reduce electricity or natural gas by customers and can reasonably be quantified based on accepted standards, except those savings attributable to State-led EE or PDR programs (including state building energy codes and state appliance efficiency standards) and any other State-sponsored EE or PDR programs.⁴⁴ Savings attributable to State-led or State-sponsored EE or PDR programs will not apply to utility program energy use reduction targets because these targets have been reduced by the amount that the State commits to achieving. Similarly, utilities will not receive incentives or penalties based on the performance of the programs that they are not responsible for administering and do not receive incentives or penalties based on the performance of State-administered programs or initiatives.

To determine whether a utility has achieved the energy use reductions targets established by the Board, as required by the CEA, Staff recommends that average energy usage for the purposes of compliance be calculated based on the average of retail sales for the most recent three years relative to the PY for which the target is applicable.⁴⁵ For example, PY5 compliance would be evaluated based on the utility's performance related to the PY5 energy use reduction target (expressed as a percentage) based on the average of retail sales in PY2, PY3, and PY4.

In all subsequent years, ahead of each three-year program filing cycle, Staff recommends that the Board establish annual utility-specific energy use reduction targets, which shall be at least 2% for electric usage reductions and 0.75% for natural gas usage reductions until such time as all cost-effective energy efficiency is achieved in the territory, pursuant to N.J.S.A. 48:3-87.9(a) and the most current market potential study. Staff recommends that the Board calculate the average energy usage for the purposes of compliance based on the average of retail sales for the most recent three program years, in the same way as is described in the paragraph above (referred to as "retail sales" in the charts below).

Based on the EE Potential Study conducted to determine the energy use reduction targets, the program administration breakdown and savings anticipated to come from each program, and the

⁴³ N.J.S.A. 48:3-87.9(a).

⁴⁴ N.J.S.A. 48:3-87.9(c) provides that "a public utility may apply all energy savings attributable to programs available to its customers, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on [May 23, 2018], building codes, and other efficiency standards in effect, to achieve the targets established in that section."

⁴⁵ As noted earlier, N.J.S.A. 48:3-87.9(a) directs the Board to require (a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and (b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas usage in the prior three years within five years of implementation of its gas energy efficiency program.

timeframe for full economic, cost-effective potential for electricity, natural gas, and peak demand use reduction by the customers of each electric and gas public utility, as required by N.J.S.A. 48:3-87.9(b), Staff recommends the energy use reduction targets below. The targets are represented as net energy use reduction as a percentage of annual energy usage. The “EM&V” section below further addresses Staff’s reasoning for recommending the use of net savings in assessing compliance with these targets.

To facilitate a smooth transition in administration of EE programs and in light of recent temporary decreases in load, Staff recommends that there be no energy use reduction targets for PY1 (July 1, 2021 – June 30, 2022). Staff recommends that utilities continue to report on PY1 performance according to all established metrics and according to all other reporting requirements, including cost-effectiveness guidelines. Also, in keeping with the CEA’s direction that targets for each electric and gas public utility shall be reviewed every three years to determine if they should be adjusted, Staff recommends that the Board establish the targets for PY4 and PY5 as preliminary and subject to further review and utility-specific modifications before finalization.

Staff recommends that the energy use reduction targets for PY2 shall be as follows:

Electric Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ACE	1.10%	0.36%	0.74%
JCP&L	1.10%	0.36%	0.74%
PSE&G	1.10%	0.36%	0.74%
RECO	1.10%	0.36%	0.74%

Gas Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ETG	0.50%	0.16%	0.34%
NJNG	0.50%	0.16%	0.34%
PSE&G	0.50%	0.16%	0.34%
SJG	0.50%	0.16%	0.34%

Staff recommends that the energy use reduction targets for PY3 shall be as follows:

Electric Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use	State-Administered Program Annual Energy Savings	Utility Program Annual Energy Savings Target
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	Reduction Target <i>Net Savings (% of retail sales)</i>	Target <i>Net Savings (% of retail sales)</i>	<i>Net Savings (% of retail sales)</i>
ACE	1.45%	0.48%	0.97%
JCP&L	1.45%	0.48%	0.97%
PSE&G	1.45%	0.48%	0.97%
RECO	1.45%	0.48%	0.97%

Gas Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ETG	0.75%	0.24%	0.51%
NJNG	0.75%	0.24%	0.51%
PSE&G	0.75%	0.24%	0.51%
SJG	0.75%	0.24%	0.51%

Staff recommends that the preliminary energy use reduction targets for PY4 shall be as follows:

Electric Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ACE	1.80%	0.59%	1.21%
JCP&L	1.80%	0.59%	1.21%
PSE&G	1.80%	0.59%	1.21%
RECO	1.80%	0.59%	1.21%

Gas Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ETG	0.95%	0.30%	0.65%
NJNG	0.95%	0.30%	0.65%
PSE&G	0.95%	0.30%	0.65%
SJG	0.95%	0.30%	0.65%

Staff recommends that the preliminary energy use reduction targets for PY5 shall be as follows:

Electric Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ACE	2.15%	0.71%	1.44%
JCP&L	2.15%	0.71%	1.44%
PSE&G	2.15%	0.71%	1.44%
RECO	2.15%	0.71%	1.44%

Gas Utilities

Utility Territory	Overall Utility-Specific Annual Energy Use Reduction Target <i>Net Savings (% of retail sales)</i>	State-Administered Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>	Utility Program Annual Energy Savings Target <i>Net Savings (% of retail sales)</i>
ETG	1.10%	0.35%	0.75%
NJNG	1.10%	0.35%	0.75%
PSE&G	1.10%	0.35%	0.75%
SJG	1.10%	0.35%	0.75%

Metrics and Weighting Structure

Including the annual energy use reduction targets above, Staff recommends the establishment of seven metrics by which utility performance will be evaluated. Staff recommends that utilities track and report on all seven metrics starting in PY1. Staff recommends that the metrics be established ahead of utility program filings, consistent among all utilities, and phased in over the first five years of New Jersey’s next generation of EE and PDR programs according to the schedule below.

For PY1 through PY3, Staff recommends the following metrics and associated weighting structure to calculate each utility’s total weighted performance:

- Annual Energy Savings (MWh or Th) – 40%
- Lifetime Energy Savings (MWh or Th) – 60%

For PY4 and PY5, Staff recommends the following metrics and associated weighting structure to calculate each utility’s total weighted performance, unless modified during the triennial review:

1. Annual Energy Savings (MWh or Th) – 10%
2. Annual Demand Savings (MW or peak-day Th) – 5%
3. Lifetime Energy Savings (MWh or Th) – 20%
4. Lifetime of Persisting Demand Savings (MW-yr or peak day Th-yr) – 10%
5. Net Present Value (“NPV”) of Utility Cost Test (“UCT”) Net Benefits (\$) – 30%

6. Low-income Lifetime Savings (MWh or Th) – 15%
7. Small Business Lifetime Savings (MWh or Th) – 10%

Following the Board’s establishment of utility-specific targets for PY1–3, and similarly ahead of each program plan cycle, Staff recommends that the Board direct the utilities to file as part of their program filing a suite of QPI values based on the suite of metrics applicable to a given PY and for each PY reflected in the three-year program filing cycle. In calculating and filing QPIs, the utilities should use a consistent methodology based on the formulas and other guidance provided by Staff. For the purposes of calculating QPIs, the utilities should submit forecasts related to retail sales in each of the applicable years that comprises the three-year average. Actual retail sales will be utilized for the purposes of calculating actual performance and applying incentives or penalties. Utilities should base their energy use reduction QPIs on the “Utility Program Annual Energy Savings Targets” in the charts above, which encompass savings anticipated to come from the utility-administered and co-managed programs, but exclude savings that come from the programs administered by the State, so that the utilities do not receive incentives or penalties based on State-administered programs.

As explained in more detail in the “Triennial Review” section below, Staff will propose the methodology for establishing utility QPIs and State QPIs associated with each metric that will apply starting in PY4.

FILING REQUIREMENTS

Utility Program Filings

The CEA states that each electric and gas public utility shall establish EE and PDR programs to be approved by the Board no later than 30 days prior to the start of the energy year.⁴⁶ The programs adopted by each utility shall comply with the QPIs adopted by the Board.

The CEA further states that each electric and gas public utility shall file with the Board implementation and reporting plans, as well as EM&V strategies, to determine the energy usage and peak demand reductions achieved by approved EE and PDR programs.⁴⁷ The filings shall include details of expenditures made by the public utility and the resultant reduction in energy usage and peak demand. The Board shall determine the appropriate level of reasonable and prudent costs for each program.

For the commencement of utility-led EE and PDR programs, Staff recommends that the Board direct the utilities to submit program filings compliant with the MFRs, described below, by September 25, 2020, for approval by the Board by May 1, 2021 and implementation beginning July 1, 2021.

For subsequent program filings, Staff proposes that utilities submit EE and PDR filings that are compliant with the MFRs by November 1 every three years for Board approval by May 1 of the following year.

Utility program administrators may propose programs that last for up to three years, with the possibility of continuation through future filings. Certain programs, such as pilots, may have shorter durations. The main section of each utility’s filing should reflect core program designs

⁴⁶ N.J.S.A. 48:3-87.9(d)(1).

⁴⁷ N.J.S.A. 48:3-87.9(d)(3).

that are consistent with those of other utilities, as recommended by Staff in the “Program Administration” section – aside from budgets, QPIs, and other utility-specific factors – and include additional initiatives and pilots in a secondary section of the filing.

Utility program administrators who wish to make mid-term adjustments to the three-year filings – that is, in between program filings – may do so in accordance with both the framework laid out in the “Program Administration” section above and the MFRs, as applicable.

Utilities will also file annual compliance and cost recovery petitions, as described below.

Minimum Filing Requirements

The MFRs for petitions under N.J.S.A. 48:3-98.1, which apply to EE and PDR program petitions, currently comprise six sections and encompass the information that electric and gas public utilities submit about their program proposals on the following topics: general filing requirements, program description, additional filing information, cost recovery mechanism, benefit-cost analysis, and EM&V.⁴⁸

Pursuant to N.J.S.A. 48:3-87.9(d)(3) – which, as noted above, requires filings with implementation and reporting plans and EM&V strategies to determine the energy usage and peak demand reductions achieved by approved programs, as well as details of expenditures and resultant reductions in energy usage and peak demand – Staff proposes changes to the current MFRs, which are detailed in Appendix B.

The proposed MFRs add requirements for program descriptions, implementation, marketing, quality assurance, QPIs, EM&V, and reporting plans that are consistent with Staff’s recommendations herein. The proposed MFRs remove existing requirements for comparisons to other utility programs and to state energy policy. They also remove certain requirements – including information about market barriers, impact on the competitive marketplace, job creation, emissions savings – that will be evaluated through the EM&V process.

State Program Filings

Staff recommends that the Board direct Staff to develop and submit filings related to the programs to be administered by the DCE ahead of each PY. More specifically, Staff will develop three-year program plans in coordination with utility program administrators and stakeholders, file those plans with the Board every three years as part of the State’s annual budget process, and update each three-year plan on an annual basis to confirm each year’s program budget, subject to allocations based on the CRA process. Staff also recommends that the Board direct Staff to submit CRAs every three years, beginning in PY1. These program plans will be based on the State’s performance targets, as established by the Board.

Similarly, Staff recommends that Staff and the utilities collaborate to develop three-year program plans for any co-managed programs and file joint program filings with the Board. The program plans will be subject to CRA allocations and have budgets that are determined every three years and may be subject to annual confirmation and/or modification.

⁴⁸ See the Board’s May 8, 2008 Order in BPU Docket No. EO08030164, as updated in the Board’s October 20, 2017 Order in BPU Docket No. QO17091004.

Utility Annual Compliance and Cost Recovery Petitions

Pursuant to N.J.S.A. 48:3-87.9(e)(1), each utility shall file an annual petition with the Board to demonstrate compliance with the EE and PDR programs, compliance with the targets established pursuant to the QPIs, and for cost recovery of the programs, including any performance incentives or penalties. Staff recommends that each utility submit its compliance filing no later than 75 days following the end of each PY (with the cost recovery portion of the petition consistent with Section IV of the MFRs) and file an annual cost recovery petition.

COST RECOVERY

Regarding the cost recovery portion of the petition, Section 87.9(e)(1) provides that each utility shall file “to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred” as a result of EE and PDR programs, “including but not limited to recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation” of the programs, which shall be determined by the Board pursuant to N.J.S.A. 48:3-98.1.

N.J.S.A. 48:3-98.1(b) provides that, in determining the recovery by utilities of program costs, the Board may take into account the potential for job creation from such programs, the effect on competition for such programs, existing market barriers, environmental benefits, and the availability of such programs in the marketplace. This statutory section also provides that ratemaking treatment may include placing appropriate technology and program cost investments in the utility’s rate base or recovering the utility’s technology and program costs through another ratemaking methodology approved by the Board, including, but not limited to, the societal benefits charge established pursuant to N.J.S.A. 48:3-60. Finally, this statutory section provides that all utility investment in EE and conservation programs may be eligible for rate treatment approved by the Board, including a ROE, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas.

Generally, Staff has been guided by the concept that there are three crucial regulatory tools needed to align the utility business model with EE: (1) recovery of program costs, (2) recovery of lost revenues due to efficiency programs, and (3) earnings consequences for efficiency investments through performance incentives and penalties. Staff’s proposed cost recovery framework incorporates each aspect in order to align the state’s utility business model with the aggressive energy saving targets set forth in the CEA.

As also noted in the “Triennial Review” section below, Staff recommends that the Board review the entire cost recovery mechanism every three years after the approval of utility EE and PDR programs.

Program Costs

Staff recommends that program costs associated with O&M be expensed and included in a utility’s annual cost recovery petition. O&M expenses will be examined for reasonableness and prudence in a utility’s annual petition for cost recovery.

Investment Treatment

Amortization

Staff recommends that program investments be amortized over a 10-year period. Staff believes that a slightly longer amortization period, compared to the seven-year period included in the Full Proposal, would strike a balance between mitigating ratepayer bill impacts and limiting utility earnings. Staff believes this treatment will more broadly spread rate impacts, limit carrying costs above and beyond direct program costs, and more closely align costs of programs with the beneficial life of measures while taking into consideration possible future bill increases from multiple new program filings.

Rate Caps

In order to encourage reaching EE goals, Staff recommends that the Board not establish an absolute cap on customer distribution rates or bills associated with EE and PDR investments; instead the Board should ensure financial discipline by requiring utility investments to hew to program cost guidelines, the cost benefit requirements, and otherwise demonstrate that the investments are prudent. Staff recommends that rate impacts be closely monitored through the annual petitions for cost recovery and that the Board evaluate the need for a cap on rates or customer bill impacts during the first triennial review.

Return on Equity

Staff recommends that the carrying costs for program investments use the capital structure established in each utility's most recent base rate case, incorporating both the cost of debt and the ROE. Staff recommends no basis point reduction on the ROE in order to recognize EE's importance compared to traditional utility investments.

Lost Revenue Treatment

Lost Revenue Adjustment Mechanism ("LRAM")

The CEA calls for utilities to file for the revenue impact of sales losses resulting from implementation of EE and PDR programs. Staff recommends that utilities annually be able to file for and recover lost revenues in the amount that they can demonstrate were attributable to utility-run EE and PDR programs.

Staff recommends that utilities be required to file a base rate case no later than five years after the commencement of an approved EE program in order to update usage projections and reset lost revenues. Staff recommends that the five year requirement may be satisfied sooner if the utility files a base rate case due to a prior obligation, such as one from an Infrastructure Investment Program ("IIP").

Staff also recommends an earnings test through which actual ROE shall be determined based on the actual net income of the utility for the most recent 12-month period divided by the average of the beginning and ending common equity balances for the corresponding period. For any EE transition portfolio approved by the Board, if the calculated ROE exceeds the allowed ROE from the utility's last base rate case by 50 basis points or more, recovery of lost revenues through the LRAM shall not be allowed for the applicable filing period.

Conservation Incentive Program (“CIP”)

As an alternative to the LRAM, Staff recommends that utilities continue to be able to utilize or propose participation in the Conservation Incentive Program (“CIP”). The Board approved the current CIP in 2014 for NJNG and SJG, and it includes the following protections: (1) an earnings test, (2) rate caps on surcharges, (3) a Basic Gas Supply Service (“BGSS”) Savings Test, and (4) required shareholder contributions.

Staff recommends the following adjustments designed to make the CIP applicable to both gas and electric public utilities:

- Removal of the BGSS Savings Test – which realizes savings as a result of contract restructurings, contract terminations, reductions of capacity for periods of at least one year, and other gas procurement strategies designed to benefit customers – and incorporation of an alternative test, which may include a cost-effectiveness test. The BGSS Savings Test could not apply to electric public utilities due to the Basic Generation Service (“BGS”) auction process and to the other non-participating gas public utilities since they do not manage their natural gas capacity portfolios.
- Requirement that the utility calculate the difference between its baseline revenue per applicable customer, determined by the utility’s most recent base rate case, and the actual revenue per applicable customer on a monthly basis. Staff recommends that the difference between the monthly baseline and actual revenue amount be tracked in a deferral account and be subject to review during an annual cost recovery true-up filing.
- Requirement that the utility file a base rate case no later than five years after commencement of an approved EE program in order to reset the baseline revenue per applicable customer, with the five year requirement satisfied if the utility has another base rate filing obligation.

As part of the modified CIP, the following protections would remain in place: (1) an earnings test, (2) rate caps on surcharges, (3) some form of a shareholder contribution; and (4) incorporation of an alternative to the BGSS Savings Test.

Performance Incentives and Penalties

According to N.J.S.A. 48:3-87.9(e)(2), if an electric or gas public utility achieves its performance targets, the utility shall receive an incentive as determined by the Board through an accounting mechanism established pursuant to N.J.S.A. 48:3-98.1 for its EE and PDR measures for the following year. The incentive shall scale in a linear fashion to a maximum established by the Board that reflects the extra value of achieving greater savings. According to N.J.S.A. 48:3-87.9(e)(3), if a utility fails to achieve the reductions in its performance targets, it “shall be assessed a penalty as determined by the [B]oard through an accounting mechanism established pursuant to [N.J.S.A. 48:3-98.1] for its [EE] and [PDR] measures for the following year. The penalty shall scale in a linear fashion to a maximum established by the [B]oard that reflects the extent of the failure to achieve the required savings.” Pursuant to N.J.S.A. 48:3-87.9(e)(4), the incentive and penalty adjustments may be made through adjustment of the utility’s ROE related to the EE or PDR programs only, or through a specified dollar amount, reflecting the incentive and penalty structure. The CEA states that adjustments shall not be included in a revenue or cost in any base rate filing.

Staff recommends that the performance incentive and performance penalty both take the form of a ROE adjustment applied to EE and PDR program investment. Staff believes using a utility's ROE, established from the utility's most recent base rate case, is fair and represents the current market value of shareholder returns in the interim period. Staff recommends that the weighted average cost of capital ("WACC") used as a utility's carrying cost of EE program investment occurring in the following year be comprised of (a) the cost of debt and (b) the ROE, as established in the "Cost Recovery: Investment Treatment" section above.

Staff recommends awarding a performance incentive if a utility achieves between 110% and 150% of its total weighted performance. Staff recommends that the performance incentive scale linearly from the ROE established in the utility's most recent base rate case (starting at 110% of QPI achievement) up to a maximum of 50 basis points above the base ROE (up to 150% of QPI achievement).

Staff recommends that the Board define achievement of 90% to 110% of a utility's total weighted performance as representing compliance with Board established targets and that no incentive be awarded nor penalty assessed within this range. Staff believes that this buffer is fair and wide enough to encourage utilities to achieve their QPIs, while providing a safety net for circumstances that may be out of a utility's control.

Staff recommends assessing a performance penalty if a utility achieves between 50% and 90% of its total weighted performance. Staff recommends that the performance penalty scale linearly from the ROE established in the most recent base rate case minus 200 basis points (starting at 50% of QPI achievement) up to the ROE established in the most recent base rate case (up to 90% of QPI achievement).

If a utility fails to reach 50% of its total weighted performance, Staff recommends that it be deemed non-compliant and assessed a penalty of 0.75% of its base rate distribution revenue in the previous year. Staff believes this treatment is fair, as the penalty will scale to utility size in a way that a set monetary penalty could not, and is nondiscriminatory.

Since the CEA does not mandate utility achievement of energy use reductions until after PY5, Staff recommends that awards of incentives and assessments of penalties not begin until after the conclusion of PY5 and that these be based on year 5 performance.

Staff also recommends that the Board exercise flexibility in levying penalties due to circumstances outside of utility control, such as COVID-19.

Energy Efficiency As a Resource

Since Staff recommends that no energy use reduction targets for PY1 be calculated by utilities, Staff does not recommend immediate implementation of the following proposal.

Consistent with the energy use reduction targets for PY2 and PY3, set out above, Staff recommends that the Board require utilities to propose "MW Bid Target Reduction" numbers for use in registration and bid into the PJM Interconnection, L.L.C. ("PJM") Base Residual Auction ("BRA"). These MW Bid Target Reduction values should be calculated consistent with the guidance set out in the energy use reduction targets and should set out MW Bid Target Reduction values for the PJM Delivery Year, which is June 1–May 31. Staff recommends that the utilities utilize the 100% goal set out in the energy use reduction target to propose the commensurate amount of MW for bid in the PJM BRA or justify why a different number is warranted in a filing to

the Board. Utilities should establish the MW Bid Target Reduction for PY2 for registration at PJM and bid into the 2024/2025 BRA. Utilities should similarly establish the MW Bid Target Reduction for PY3 for registration at PJM to bid into the 2025/2026 BRA. In keeping with the CEA's direction that targets for each electric and gas public utility be reviewed every three years, Staff recommends that the Board establish further MW Bid Target Reduction values for PY4 and PY5 as preliminary and subject to further review and utility-specific modifications.

In PY2 and all following years, Staff recommends that the utilities be required to register, nominate, and bid the MW Bid Target Reduction, as proposed by the utilities and established by the Board, in response to the utilities compliance filing in this matter, into the PJM BRA for the relevant PJM Delivery Year. Staff recommends that the Board require development of these proposals in the program filings due September 25, 2020 and in each triennial program update. The utility should take the risk for delivering the MW Bid Target Reduction, which shall equal the nominated and bid MW quantity of EE, in the delivery year. The utilities may file to recover any related PJM charges that may arise from ratepayers, including, for example, capacity deficiency charges, but will be held to a high standard of demonstrating that such charges were unavoidable, including by purchasing or buying-back obligations in the incremental auctions or otherwise bilaterally contracting to cover any shortfall. Sales should be made into the BRA, with any true-ups occurring in the incremental auctions. Staff recommends, however, that the Board deem sales of anticipated capacity in the incremental auctions as non-compliant if the utilities could have reasonably anticipated that the capacity would be available at the time of the BRA. Any such PJM penalties for non-performance or capacity deficiency may be assessed by PJM before the Board-determined penalties are calculated after the conclusion of PY5.

Alternatively, Staff recommends that the utilities provide a proposal to utilize a third-party provider to achieve the requirements above. The proposal must account for the risk of delivering the MW Bid Target Reduction, which is the MW quantity of EE registered and bid into the PJM BRA, in the PJM Delivery Year. Staff recommends that the utilities and any third-party provider be held to a similarly high standard, described above, including recommended noncompliance for sales of anticipated capacity in the incremental auctions.

Should a utility or its third-party provider decide not to bid each year's MW Bid Target Reduction into the PJM markets, Staff recommends that the utility be required to submit sufficient documentation explaining the reasons why it is economically infeasible to do so. This evaluation should cover considerations such as the effects of PJM's Minimum Offer Price Rule ("MOPR") and PJM's resulting compliance filings, PJM's rules for EE in the Reliability Pricing Model ("RPM"), and the expected revenue from that participation.

In response to comments that the "EE as a Resource" section should not be implemented, Staff notes that New Jersey ratepayers are required to purchase additional capacity for each nominated MW of EE that is registered with and accepted by PJM prior to the BRA.⁴⁹ These additional

⁴⁹ PJM Manual 18 § 2.4.5 ("After EE Providers propose EE Resource(s) in their EE Measurement and Verification (M&V) Plans and PJM reviews and accepts the Nominated EE Value of the proposed EE Resource(s), PJM will use the resulting Nominated EE Value to: (1) create an EE Resource to be offered into the upcoming auction, and (2) **increase the reliability requirement to be satisfied for the region and for any affected Zones (or sub-Zonal LDAs). For each BRA, the Reliability Requirement of the RTO and each affected LDA will be increased by the total UCAP Value of all EE Resource(s) for which PJM accepted an EE M&V Plan for that auction, and upon which PJM created an EE Resource to be offered into that upcoming BRA.**") (emphasis added)

purchases are not trivial.⁵⁰ Effective participation in the PJM marketplace from EE is critical to ensure appropriate economic benefits.

EVALUATION, MEASUREMENT, AND VERIFICATION

EM&V Administrative Structure and Working Group

Staff recommends establishment of an EM&V Working Group (“EM&V WG”) in the summer of 2020 that brings together Staff, Rate Counsel, the utilities, and a statewide evaluation manager, with technical evaluation contractors assisting both utilities and the Board, program implementation contractors, and representatives from the other EE working groups as appropriate to provide guidance and input on the planning and monitoring of EM&V plans (including activities, methodologies, budgets, and priorities), policies, procedures, guidelines, requirements for program administrators (including data to be tracked and reported such as GHG emissions reductions, British Thermal Unit (“BTU”) savings, local worker job-hours, supplier diversity), methods to account for strategic electrification, and schedules. Staff recommends that the EM&V WG provide recommendations to the Board on development of a standard, transparent, and replicable approach for EM&V across the state. As part of this standard statewide approach, Staff further recommends that the State and utilities be held to the same accountability standards such as the frequency and transparency of reporting and vendor procurement requirements. Staff also recommends that the EM&V WG be required to share associated data, as appropriate, be responsible for tracking best practices from other jurisdictions, and facilitate the necessary stakeholder processes related to the State’s EM&V policies. Staff recommends that the role of the EM&V WG be highly deliberative and advisory regarding key EM&V plans and recommendations and that the Board retain ultimate decision-making authority.

Evaluating Energy Savings

The CEA at N.J.S.A. 48:3-87.9 calls on the Board to require each electric and gas public utility to reduce the use of electricity or natural gas, as appropriate, within its territory by its customers **below what would have otherwise been used** (emphasis added). Also, Section 87.9(c) provides that a utility may apply **all energy savings attributable to programs available to its customers**, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on the date of enactment, building codes, and other efficiency standards in effect, to achieve the targets (emphasis added).

Net vs. Gross Savings

Based on the CEA’s call for all attributable energy savings to be calculated, as well as Staff’s review of industry best practices that indicate that a shift to net savings for measuring and evaluating energy savings is most appropriate, Staff recommends that, in (1) calculating energy reductions resulting from EE and PDR programs and (2) applying other permissible energy savings, State and utility program administrators should report energy savings in both gross and net savings, and net savings should be utilized for all aspects of program review, including

⁵⁰ For example, under these rules, PJM “added-back” 377.4 MW to the Reliability Requirement in the constrained PSE&G zone before the most recent 2021/2021 BRA.⁵⁰ The Independent Market Monitor, in his analysis of the BRA, calculated that without these “add-backs” to the Reliability Requirement,⁵⁰ the PSE&G zone would have purchased 319 MW less capacity, and the price would have decreased from \$204.29 MW/day to \$179.16 MW/day.⁵⁰ In sum, ratepayers were responsible for an additional \$70,094,537 in capacity costs,⁵⁰ as a result of registered EE resources, in the most recent BRA.

compliance and cost-effectiveness testing.

Staff recommends that the Board establish accurate net-to-gross (“NTG”) ratios to ensure that program administrators are incented to design programs that maximize savings attributable to those programs and account for free ridership and spillover effects.

Net to Gross Ratios

NTG ratios estimate the savings attributable to specific programs or measures, not including free riders and spillover effects. Staff recommends that the Board, working with the EM&V WG, coordinate the development of a net vs. gross study through a stakeholder-focused, data-driven process. This NTG study should be performed during the first program cycle and evaluate the effects of free ridership, spillover, and other induced effects of EE and PDR programs to account for these effects more precisely in the reporting of energy savings, particularly for those programs that have custom measures. Staff recommends that the EM&V WG should periodically examine the need for new NTG studies.

Staff recommends that New Jersey utilize a NTG value of 1.0 for all programs until more New Jersey-specific NTG factors are developed. In the event that a study cannot be completed by the start of PY4, the EM&V WG should provide input, and Staff will recommend a NTG ratio based on industry best-practices and research of other jurisdictions to be adopted in or before PY4.

Technical Resource Manual / Protocols to Measure Resource Savings (“Protocols”)

Staff recommends that New Jersey continue to update, through a public stakeholder process, its Technical Resource Manual (“TRM”), currently referred to as the Protocols to Measure Resource Savings (“Protocols”), to include current values for deemed savings calculations for existing State- and utility- administered programs and that a comprehensive update of New Jersey’s TRM will be necessary ahead of the commencement of the first year of the next generation of EE and PDR programs (i.e., PY1, which commences July 1, 2021) in order to ensure that all measures included in both State and utility programs are represented in the TRM. Where appropriate for custom measures or programs where external software or other approaches will be utilized to develop energy savings estimates, Staff recommends that the EM&V WG review those systems and that those methods for calculating energy savings be incorporated or referenced in the Protocols. Following the appropriate process to develop recommended updates to the Protocols, the EMV WG should work with Staff to develop recommendations for the Board related to the adoption of updated Protocols for use by all program administrators.

Benefit-Cost Analyses (“BCA”) / Cost-Effectiveness Testing

The DCE has traditionally based its benefit-cost analyses (“BCA”) on the California Standard Practice Manual (“CSPM”), which defines five main cost tests⁵¹ for the BCA to align with the various perspectives of key stakeholders.

The CEA at N.J.S.A. 48:3-87.9(d)(2) states that:

The energy efficiency programs and peak demand reduction programs shall have a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level, considering both

⁵¹ These cost tests are the Participant Cost Test, Program Administrator Cost Test or Utility Test, Ratepayer Impact Measure Test, Total Resource Cost Test, and Societal Cost Test.

economic and environmental factors, and shall be subject to review during the stakeholder process established by the board pursuant to subsection f. of this section. The methodology, assumptions, and data used to perform the benefit-to-cost analysis shall be based upon publicly available sources and shall be subject to stakeholder review and comment. A program may have a benefit-to-cost ratio of less than 1.0 but may be appropriate to include within the portfolio if implementation of the program is in the public interest, including, but not limited to, benefitting low-income customers or promoting emerging energy efficiency technologies.

New Jersey Cost Test

Staff notes the CEA's directive for EE and PDR programs to have a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level and the CEA's requirement that the test consider both economic and environmental factors. Staff recommends establishment of a primary cost-effectiveness test for the evaluation of EE and PDR programs and that it be called the New Jersey Cost Test.

Taking into account stakeholder comments that development of a Resource Value Test ("RVT") by the fall of 2020 would be complex, contentious, and not realistic, Staff recommends that the Board delay pursuing the RVT until the EM&V Working Group can investigate its implementation in New Jersey. Staff recommends that a modified Total Resource Cost Test ("TRC") be used as the primary New Jersey Cost Test for the first three-year program cycle. The interim test will use the CSPM TRC as a foundation and be modified with stakeholder input to include additional non-energy impacts. To ensure that the test is symmetrical, the relevant costs and benefits will be included for each type of considered additional non-energy impact. The value of inputs and/or the method for developing such values shall be consistent among State and utility program administrators. Staff also recommends that the Board require program planners and administrators to continue to report the results of all five CSPM tests, as currently used by the State, for information purposes during the first three-year program cycle.

Staff recognizes that this interim New Jersey Cost Test may not include the full range of possible non-energy impact benefits and costs that could be included in a primary test. In the interest of establishing a test that allows for the timely development of programs, Staff recommends considering non-energy impacts that are readily documented and have agreed upon values either in New Jersey or which can be reasonably used in New Jersey. Staff suggests that the Board direct Staff to submit a proposed interim New Jersey Cost Test for stakeholder input in summer 2020, followed by swift Board action.

For future program cycles, Staff recommends that the EM&V WG further evaluate relevant non-energy benefits and costs for inclusion in the New Jersey Cost Test, recommend third-party studies to further evaluate and quantify non-energy impacts as needed, and recommend on an ongoing basis additional non-energy benefits and costs to consider including in future updates to the New Jersey Cost Test. The Board shall continue to consider any such recommendations and adopt the New Jersey Cost Test for use by all program administrators.

Staff recommends that the EM&V WG develop and recommend an approach to estimating avoided costs on a statewide basis, using utility-specific inputs where appropriate, for consideration by Staff. Staff recommends that the Board charge Staff with recommending avoided costs for consideration.

Studies / Evaluation

Staff recommends that the EM&V WG develop and recommend the timeline for EM&V studies for each three-year program cycle as well as longer-term studies, including updates to non-energy impacts and avoided costs methodologies, updates to New Jersey's Protocols, impact evaluations, process evaluations, and any additional studies and evaluations. For example, additional studies may evaluate participation by environmental justice and low- to moderate-income customers and by minority-, women-, and veteran-owned businesses.

REPORTING REQUIREMENTS

Utility Reports

Staff recommends that the utilities submit public reports to the Board according to the reporting framework outlined below and as outlined in the revised MFRs. Staff recommends that Staff establish standard report formats in collaboration with the utilities.

Quarterly progress reports: No later than 60 days following the end of each quarter, the utility shall submit a user-friendly, public report, with accompanying spreadsheet(s), that includes an overview of program performance, a narrative about customer participation and incentives paid, and results on the following program-level parameters compared to program projections and goals:

- i. Energy savings
- ii. Number of program participants: total, moderate-income, and small commercial
- iii. Program expenditures

Annual progress reports: No later than 75 days following the end of each PY, the utility shall submit a user-friendly, public report, with accompanying spreadsheet(s), that includes the same program-level data and accompanying progress/performance narratives as those that are included in the quarterly reports. The annual report will show overall progress and performance of programs that are seasonal or cyclical in nature. In addition, the annual report shall include the utility program administrator's initial and final benefit-cost test results for the programs and portfolio (as defined in Section V of the MFRs), assessment of the portfolio's compliance with the targets established pursuant to the QPIs (as defined in Section VII of the MFRs), and any proposed changes or additions for the next year or cycle.

The annual progress reports will demonstrate utilities' compliance with the targets established pursuant to the QPIs. If requested, the utilities will provide end use, measure level and/or other program data within 30 days to Staff.

Triennial progress reports: No later than 90 days following the end of the PY3, the utility shall submit a public report that takes the place of the annual report for that year. This report would be identical to the annual report but will also review the portfolio's data and assess the portfolio's success over the three-year program cycle.

State Reports

Staff recommends that State program administrators also submit public reports consistent with the utility reporting framework and including values for each applicable metric. All public reports will be available to any interested party on the BPU's website. The State will also aggregate the data from utility and State programs and produce public reports on the performance and progress

of all EE and PDR programs in the state on key metrics such as energy savings, cost savings, environmental benefits, number and types of participants, and program expenditures. GHG emissions reductions will similarly be reported and aggregated in order to contribute to the State's larger climate goals. These reports shall be available on the BPU's website after all individual progress reports are submitted.

TRACKING DATA

Utility stakeholders, in particular, strongly recommended that a statewide system be used to aggregate program-level data submitted by the utilities and that utilities own and maintain their own independent tracking systems, which are unique to each utility and which hold application-level and measure-level data.

Staff recommends that utilities and their contractors work together to ensure that utilities receive and track all required information related to the implementation of EE and PDR programs. Staff recommends that data in the utility data tracking systems be made available for EM&V purposes. Staff also recommends that the Board direct Staff to engage a contractor to administer the statewide tracking system.

Staff proposes to further collaborate with stakeholders, including information technology professionals, to discuss the tracking systems in more detail, develop standardized reporting templates and formats, develop common measure names, and develop the processes by which contractors, utilities, and the State will work together to implement this system.

TRIENNIAL REVIEW

Pursuant to the CEA at N.J.S.A. 48:3-87.9(c), the Board shall review each QPI every three years.

Staff recommends that, every three years, ahead of each utility filing cycle, the Board charge Staff with undertaking a triennial review process to review and establish the following for each of the subsequent five PYs (with the final two years considered preliminary and subject to review in the next triennial review) and for each utility (and, separately, each energy source, in instances where a utility is a provider of both electric and natural gas service):

- Targets for overall utility-specific annual energy use reduction (*for each utility and each energy source*)
 - Targets for State program annual energy savings (*for each utility and each energy source*)
 - Targets for utility program annual energy savings (*for each utility and each energy source*)
- Metrics (*consistent for all utilities and the State*)
- Weighting structure of metrics (*consistent for all utilities*)
- Cost recovery mechanisms
- Performance incentive and penalty structure
- Cost to achieve ranges
- Program administration and design

To establish formulas for calculating QPIs associated with each metric that will apply starting in PY4, Staff proposes recommending a methodology that, pursuant to N.J.S.A. 48:3-87.9(c) does the following:

- Incorporates weather, economic factors, customer growth, outage-adjusted efficiency factors, and any other appropriate factors to ensure that the public utility's incentives or penalties are based upon performance;
- Takes into account the growth in the use of EVs, microgrids, and DER, as well as strategic electrification; and
- Utilizes the results of the utility demographic analysis in considering each public utility's customer class mix and potential for adoption by each of those customer classes of EE programs offered by the public utility or that are otherwise available.

For example, in consideration of stakeholder comments that GHG emissions reductions or BTU reductions be added as a metric, Staff suggests that these be considered for inclusion in PY4 and beyond.

As part of the triennial review process, Staff recommends that the Board establish annual energy use reduction targets of at least 2% and 0.75% in each utility territory that will apply after the first five years of program implementation until such time as all cost-effective EE is achieved in the territory, pursuant to N.J.S.A. 48:3-87.9(a).

STAKEHOLDER GROUPS

Utility Working Group (“UWG”)

Staff plans on utilizing ongoing Utility Working Group (which is comprised of members from each of the utilities and Rate Counsel) meetings to further refine program design details. There will also be ongoing stakeholder opportunities for the public to provide feedback coordinated by Staff.

Energy Efficiency Advisory Group (“EEAG”)

The Board established the EEAG in May 2019 pursuant to N.J.S.A. 48:3-87.9(f)(1), which called upon this group “to study the evaluation, measurement, and verification process for the reduction programs and provide recommendations to the Board for improvements to the programs.” The role of the EEAG is to serve in an advisory capacity and share their expertise as well as further input from other stakeholders to provide insight on key elements of program implementation and evaluation for Staff’s use in the development of recommendations to the Board. Members of the EEAG are appointed by the President of the BPU for two year terms and represent key stakeholder groups in New Jersey. The five members of the EEAG are: Mary Barber (Environmental Defense Fund), Stefanie Brand (Rate Counsel), Tom Churchelow (New Jersey Utilities Association), Vivian Cox Fraser (Urban League of Essex County), and Dennis Hart (Chemistry Council of New Jersey). The EEAG has participated in public stakeholder meetings and in multiple meetings with Staff and the Utility Working Group on topics related to the energy efficiency transition.

The statutory purpose of the EEAG having been satisfied, Staff recommends that the Board charge Staff with developing recommendations for future Advisory Groups or Advisory Councils to assist in future efforts as necessary.

In the interim, Staff recommends that the EEAG include the following working groups and subcommittees.

Workforce Development Working Group (“WFD WG”): The WFD WG will comprise Staff, Rate Counsel, the utilities, EE suppliers, job training institutions and organizations, equity stakeholders, and other agencies, organizations, and representatives from the other EE working groups as appropriate. This working group will develop recommendations for establishing coordinated and collaborative workforce development and job training pathways and pipelines statewide, with a focus on providing economic opportunities for underrepresented and socially or economically disadvantaged individuals. Underrepresented and socially or economically disadvantaged individuals may include women, people of color, veterans, disabled, and formerly incarcerated individuals, as well as those who are unemployed, underemployed, or low- and moderate-income. Programs may include contractor and subcontractor coaching and mentoring of underrepresented, disadvantaged, and small business enterprises.

Equity Working Group (“EWG”): The EWG will comprise stakeholders from representative organizations across the state familiar with the intersection of energy, equity, and health issues, as well as representatives from each of the other working groups. This working group will be responsible for developing recommendations for integrating equity metrics and approaches in EE and PDR programs for utility-run, State-run, and co-managed programs. The EWG will collaborate with the Supplier Diversity Development Council on recommendations for increasing economic development opportunities for minority-, women-, and veteran-owned businesses, including through, but not limited to, procurement policies for contractors and subcontractors.

Comfort Partners Subcommittee: The Comfort Partners Subcommittee will continue in a manner similar to its current operations wherein representatives from all utilities, as well as Staff, collaborate to oversee all elements of the management and delivery of the Comfort Partners program and utilities perform all day-to-day operations.

Multifamily Subcommittee: The Multifamily Subcommittee will consist of representatives of the utilities and the State who work together to develop program design and manage the delivery of the multifamily sector program, including oversight of implementation contractor(s) and program guidelines. The goal for this working group is to ensure that there is equitable access for all customer classes and adequate program support throughout program implementation.

Evaluation, Measurement, and Verification Working Group (“EM&V WG”): The EM&V WG will comprise Staff, Rate Counsel, the utilities, and a statewide evaluation manager, with technical evaluation contractors assisting both utilities and the Board, program implementation contractors, and representatives from the other EE working groups as appropriate to provide guidance and input on the planning and monitoring of EM&V plans (including activities, methodologies, budgets, and priorities), policies, procedures, guidelines, requirements for program administrators (including data to be tracked and reported such as GHG emissions reductions, BTU savings, local worker job-hours, supplier diversity), methods to account for strategic electrification, and schedules. The EM&V WG will provide recommendations to the Board on development of a standard, transparent, and replicable approach for EM&V across the state. As part of this standard statewide approach, the State and utilities will be held to the same accountability standards such as the frequency and transparency of reporting and vendor procurement requirements. The EM&V WG will be responsible for sharing associated data, tracking best practices from other jurisdictions, and facilitating the necessary stakeholder processes related to the State’s EM&V policies. The EM&V WG will be highly deliberative regarding key EM&V plans and recommendations and will make recommendations to Staff. The Board will retain ultimate decision-making authority.

Energy Codes and Standards Subcommittee: Staff proposes to form an energy codes and standards subcommittee within the EM&V WG that seeks to identify opportunities for greater energy efficiency via building energy code strategies and to quantify the energy savings that could result from updates to energy codes. In addition, Staff recommends that the Board procure an energy code compliance baseline study and review and adopt as appropriate recommendations arising from the study.

Marketing Working Group (“MWG”): The MWG will consist of both the State and utilities, as well as any relevant consultants/contractors, and will work to promote the programs, the overall statewide brand (utilized by all program administrators), and the larger benefits of participation in EE and PDR programs. Utilities and Staff will engage in a collaborative effort in branding, messaging, and promotion of all utility- and State-led programs, including in the provision of program materials in Spanish and other languages other than English. Staff shall leverage State resources to promote general awareness of EE and other clean energy opportunities in New Jersey while the utilities shall market specific programs and initiatives to customers in a more targeted fashion.

DISCUSSION AND FINDINGS

The Board **FINDS** that the processes utilized in developing Staff’s recommendations were appropriate and provided stakeholders and interested members of the public with adequate notice and opportunity to comment.

The Board has reviewed the stakeholder comments and Staff’s recommendations. The Board **FINDS** that Staff’s recommendations will benefit New Jersey’s residents, energy users, ratepayers, and electric and gas public utilities and are consistent with the goals of the Clean Energy Act and the Energy Master Plan. Therefore, the Board **HEREBY APPROVES** Staff’s recommendations, with specific directives included below.

Utility Programs

The Board **ACCEPTS** the utility demographic analysis report and **DIRECTS** the utilities to utilize the resulting demographic information about electricity and gas utility customers, combined with information regarding factors that contribute to customers’ access to and participation in EE and PDR programs, to design programs that maximize access to and participation by all customers. These programs should reflect the definition of sectors and customers recommended by Staff. The Board **DIRECTS** Staff to publish the demographic analysis report on DCE’s website.

The Board **DIRECTS** that the utilities shall administer a suite of core programs that serve the residential, commercial and industrial, and multifamily sectors in the manner detailed above and that are consistently available throughout the state, as recommended by Staff. These programs should include coordinated and common program elements, as recommended by Staff. The Board views these elements as important to ensure consistency of core program delivery, which will ease participation by customers and contractors, while advancing key policy goals such as improving access to programs by low- to-moderate income customers, and expanding opportunities for EE jobs for local, underrepresented, and disadvantaged workers and businesses. Further, the Board **DIRECTS** that, where applicable, the utilities shall collaborate with Staff to develop program designs and requirements that are complementary to and non-competitive with the designs and requirements of State-administered programs. The Board **APPROVES** of Staff’s guidelines for the cost of utility core programs to achieve energy savings and **DIRECTS** the utilities to provide justification if they propose core programs whose costs to achieve fall outside of these guidelines.

The Board also **DIRECTS** the utilities to file as an additional utility initiative at least one PDR program, to commence no later than PY4. Additional utility initiatives should include common program elements as recommended by Staff. The Board encourages the utilities to propose additional initiatives and program enhancements, including pilot programs that can be eventually considered for adoption by other utilities as additional initiatives or core programs to be administered by all utilities.

In areas where electric and gas service territories overlap, the Board **DIRECTS** the utilities to design a program structure that results in coordinated, consistent delivery of programs among all utilities and that allocates costs and energy savings among the utilities.

The Board **DIRECTS** Staff to develop standardized definitions for all EE and PDR programs and related materials and to work with the utilities and other key stakeholders on an ongoing basis to identify and develop needed definitions.

The Board **DIRECTS** Staff and the utilities to engage in a collaborative effort in consistent branding, messaging, and promotion of all utility- and State-led programs, including in the provision of program materials in Spanish and other languages in addition to English.

The Board **DIRECTS** the utilities to work with Staff on a public stakeholder process to gather public input on proposed core program design between June and August 2020.

The Board **ADOPTS** the revised MFRs, as recommended by Staff, and directs the utilities to file three-year program petitions by September 25, 2020, for approval by the Board by May 1, 2021 and implementation beginning July 1, 2021.

Regarding adjustments to program budgets and incentives, the Board seeks to strike a balance between allowing utilities sufficient freedom to quickly make adjustments in response to changing market demands, on the one hand, at the same time as retaining Staff and Board review of changes above certain thresholds. The Board notes that the requirements for making these adjustments will be subject to change and improvement through the triennial review process. The Board therefore **ADOPTS** Staff's recommendations on adjustments to utility-led programs, including adjustments to budgets and incentives.

The Board **ACCEPTS** Staff's recommendations on Butler and **DIRECTS** Staff to return with recommendations specific to Butler.

State Programs

The Board **ACCEPTS** Staff's recommendation for the State to maintain and manage a series of programs for the market sectors and areas Staff identified as best served by State administration, as well as to take the lead in pursuing the identified additional State initiatives. It is of particular importance that the Board and Staff prioritize coordination among state agencies and other entities to explore and pursue solutions that resolve longstanding health and safety barriers to EE for low- to moderate-income customers, as well as for the Board and Staff to coordinate with state agencies and other entities to develop statewide workforce development pathways and other initiatives, including for underrepresented and disadvantaged individuals and communities.

The Board **DIRECTS** Staff to develop detailed three-year program plans and budgets that are based on the State's performance targets, submit Compliance Filings every three years as part of the State's annual budget process, and update each three-year plan on an annual basis to

confirm each year's program budgets, subject to allocations based on the CRA process, which shall also be submitted every three years beginning in Fiscal Year 2022.

Co-Managed Program

The Board **ADOPTS** Staff's recommendation for the utilities and State to continue to co-manage the low-income program offerings through the Comfort Partners program and to explore and pursue options for increasing access to EE and PDR for low-income customers through the Comfort Partners program or other opportunities in a co-managed format. The Board also **DIRECTS** Staff and the utilities to develop three-year program plans for these co-managed programs and submit joint filings with the Board as part of the State's annual budget process.

Performance Targets

The Board **ACCEPTS** Staff's recommendations for establishing utility-specific and State targets for net energy use reduction as a percentage of load, as well as Staff's recommendations about what energy savings utilities may and may not apply in assessing compliance with their targets. More specifically, the Board **DIRECTS** utilities to report on energy use reduction for PY1 and **ADOPTS** the energy use reduction targets and their associated weights for PY2 and PY3. The Board further **DIRECTS** the utilities to file annual QPI values in response to the established targets within their program filings consistent with Staff's recommendations. The Board **ADOPTS** Staff's recommendations that the average of energy usage in the prior three years in each utility's territory be used to determine whether the utility has achieved its energy use reduction targets.

Annual Utility Petition

The Board **DIRECTS** each utility to file an annual petition no later than 75 days following the end of each PY to demonstrate compliance with the EE and PDR programs, compliance with the performance targets, and for cost recovery of the programs, including any performance incentives or penalties, consistent with the MFRs.

Cost Recovery

As part of its annual petition above, the Board **DIRECTS** each utility to file to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of EE and PDR programs, including but not limited to recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the programs.

Regarding investment treatment, the Board agrees with Staff's reasoning and **ADOPTS** Staff's recommendations on the following aspects of cost recovery of program investments: amortization of program investments over a 10-year period; no cap at this time on the customer distribution rate or customer bill associated with program investments; and use of the capital structure established in each utility's most recent base rate case as the carrying costs for program investments, incorporating both the cost of debt and the ROE, with no basis point reduction on the ROE.

The Board established the CIP in 2006 as a pilot for NJNG and SJG as a mechanism to separate the link between customer usage and a company's gross margin (sales minus cost of goods sold), while the utility encourages customer conservation. The CIP has gone through modifications over the years, with the most recent approval by the Board in 2014. The CIP includes ratepayer protections such as an earnings test, rate caps on amounts collected from ratepayers, a BGSS Savings Test, and required shareholder contributions.

Throughout the EE transition stakeholder process, stakeholders voiced their concerns about Staff's proposed LRAM, arguing that it does not remove the utilities' throughput incentive and thereby disincentivizes utilities from aggressively pursuing the EE reductions mandated by the CEA. With respect to the potential to use a CIP mechanism as an alternative to the LRAM, stakeholders commented that the current CIP would need to be modified in order to allow electric distribution companies ("EDCs"), as well as the remaining two gas distribution companies ("GDCs"), to participate.

The Board recognizes that the LRAM is an important component of the cost recovery mechanism and the energy efficiency transition in furthering the goals of the CEA. Based on this, the Board **FINDS** that the lost revenue recovery mechanism adopted in the state should encourage, not hinder, active utility participation in EE investments by removing the utilities' throughput incentive and enabling the utilities to aggressively endorse and pursue EE while providing adequate ratepayer protections. Having considered the comments submitted by all stakeholders, the Board **DIRECTS** the utilities and Staff to work with Rate Counsel to develop a CIP that could be applicable to all of the state's EDCs and GDCs. The Board **ORDERS** that, for any utility that does not agree to a modified CIP, Staff's LRAM as presented in the Full Proposal will be the lost revenue recovery mechanism.

Regarding performance incentives and penalties, the Board **ADOPTS** Staff's recommendation that each utility's potential incentive and penalty both take the form of an ROE adjustment applied to EE and PDR program investment, with the WACC comprising the utility's cost of debt and the ROE. The Board **FINDS** Staff's recommendation on the performance incentive and penalty structure to represent a reasonable range between incentives and penalties based on a utility's ROE and **ACCEPTS** Staff's recommendation that achievement of 90% to 110% of a utility's total weighted performance will represent compliance with the Board-established targets and that no incentive be awarded or penalty assessed within this range. The Board also **ADOPTS** Staff's recommendation to include no award of incentives or assessment of penalties until after the conclusion of PY5, based on year 5 performance. Furthermore, the Board agrees that the Board may exercise its discretion in levying penalties for performance results that are due to circumstances outside of utility control, such as COVID-19.

As part of the cost recovery for EE programs, the Board remains focused on ensuring reasonable rates for ratepayers, especially those ratepayers funding the underlying cost of the EE program. N.J.S.A. 48:2-21. Acknowledging Staff's analysis, the Board recognizes that maximum return of PJM revenues to ratepayers who are funding the underlying costs of the program is an important component of the cost recovery mechanism. To implement this requirement, the Board **HEREBY ORDERS** the utilities to propose "MW Bid Target Reduction" values for PY2 and PY3, for PJM Delivery Years 2024/25 and 2025/26 at the 100% target level, as part of the compliance filings in this matter, according to Staff's recommendation.

The Board **ADOPTS** Staff's recommendations related to EE as a resource in PJM. The Board recognizes the additional risks that are inherent in PJM market participation, but remains concerned with the substantial additional capacity costs that arise as a direct result of EE resources that have been registered with PJM, as identified by Staff. Therefore, the Board **ORDERS** that a utility submit a proposal, for the utility or a designated third party identified in the utility's proposal, to register and bid the MW Bid Target Reduction values into the PJM BRA under the guidelines set out by Staff. Should a utility or its third-party provider decide not to bid each year's MW Bid Target Reduction into the PJM markets, or in a utility's compliance filing lieu of the EE as a Resource requirement, the Board **FURTHER ORDERS** that the utility submit sufficient documentation explaining the reasons why it is economically infeasible to do so. This evaluation

shall cover considerations such as the effects of PJM's MOPR and PJM's resulting compliance filings, PJM's rules for EE in the RPM, and the expected revenue from that participation.

EM&V

The Board **FINDS** that the standard, transparent, and replicable statewide approach to EM&V recommended by Staff will serve to ensure the successful evaluation, measurement, and verification of the State's energy efficiency programs. Accordingly, the Board **DIRECTS** all program administrators to utilize the consistent methods established in the Protocols to report all energy savings from EE and PDR programs. The Board further **DIRECTS** Staff to develop an RFP or other appropriate approach to complete a comprehensive update of the Protocols and to work with the EM&V WG and program administrators to ensure that the Protocols are regularly updated and include methodologies or references to establish deemed energy savings for all measures and technologies approved in the EE and PDR programs.

Staff reviewed the practices of other jurisdictions regarding the use of net vs. gross savings for measuring and evaluating programs. Through this review, Staff found that the use of net savings is an adopted best practice among program administrators and jurisdictions with successful EE programs that achieve high levels of energy savings. Therefore, Staff is recommending that a shift to net savings for measuring and evaluating energy savings is appropriate. The Board **ADOPTS** Staff's recommendations on net vs. gross savings and directs State and utility program administrators to (1) report energy use reductions in both gross and net savings, (2) use net savings for all aspects of program review, including compliance and cost-effectiveness testing, and (3) use a NTG value of 1.0 for all programs until more New Jersey-specific NTG values for specific programs are developed.

The Board **DIRECTS** Staff, working with the EM&V WG, to coordinate the development of a net vs. gross study during the first program cycle and periodically examine the need for new NTG studies. In the event that a study cannot be completed by the start of PY4, the Board **DIRECTS** the EM&V WG to recommend to Staff for consideration and recommendation to the Board a NTG ratio to be adopted in or before PY4.

Staff received comments from stakeholders on the Full Proposal raising concerns that developing the RVT for New Jersey by the fall of 2020 would be complex, contentious, and not realistic. Understanding these concerns, Staff continues to recommend that program administrators throughout the state utilize a primary cost-effectiveness test that considers both economic and environmental factors as required by the CEA. Therefore, the Board **ADOPTS** Staff's recommendations to (1) work toward development of a New Jersey Cost Test that will be the primary cost-effectiveness test used to evaluate utility- and State-led EE and PDR programs and (2) propose a modified TRC as the primary cost test while continuing to use the CSPM tests for information purposes for the first three-year program cycle.

The Board **DIRECTS** Staff to ensure that the EM&V WG do the following:

- Evaluate non-energy impacts for inclusion in the New Jersey Cost Test, recommend third-party studies to further evaluate and quantify non-energy impacts as needed, and recommend on an ongoing basis additional non-energy impacts for inclusion in future updates to the New Jersey Cost Test;
- Develop and recommend an approach to estimating avoided costs on a statewide basis, utility-specific inputs where appropriate;
- Develop and recommend the timeline for EM&V studies for each three-year program cycle, including updates to non-energy impacts and avoided costs methodologies,

updates to New Jersey's Protocols, impact evaluations, process evaluations, methods to account for strategic electrification and any additional studies and evaluations;

- Share associated data as appropriate and track best practices from other jurisdictions; and
- Facilitate the necessary stakeholder processes related to the State's EM&V policies.

The Board further **DIRECTS** Staff to develop an RFP to procure an ongoing contract with a statewide evaluator to facilitate the EM&V Working Group, review utility and state EM&V methods and assumptions, and perform other activities, as defined by Staff and the EM&V Working Group.

Reporting

The Board **DIRECTS** the utilities to submit public reports to the Board according to the revised MFRs and Staff's recommendations for quarterly progress reports, annual progress reports, and triennial progress reports.

The Board **DIRECTS** State program administrators to submit public reports consistent with the utility reporting framework; aggregate data from utility- and State-led programs to produce public reports on the performance and progress of all EE and PDR programs, including GHG emissions reductions; and make all public reports available on the BPU's website.

Tracking

The Board **DIRECTS** the utilities to work with their contractors to ensure that the utilities' independent tracking systems will receive, track, and be used to report to the Board all required information related to the implementation of EE and PDR programs and that, where appropriate, these systems integrate into any statewide tracking systems developed for similar purposes.

The Board **DIRECTS** Staff to engage a contractor to administer the statewide tracking system that will aggregate program-level data submitted by the utility and State program administrators.

Triennial Review

The Board **DIRECTS** Staff to undertake a triennial review process, as recommended by Staff, to review and establish metrics, the associated weighting structure, and utility and State performance targets for each PY until all cost-effective energy efficiency has been achieved in a given utility territory. In particular, the Board **DIRECTS** Staff to propose a methodology, as described above, to establish utility- and State-specific QPIs that will apply starting in PY4. After the first five years of program implementation, the Board **DIRECTS** Staff to use the triennial review process to recommend annual energy use reductions in each utility territory for the next three years.

The Board also **DIRECTS** Staff to use the triennial review process to review the cost recovery mechanism, including the incentive and penalty structure, program administration and design, and "cost to achieve" budgets.

Stakeholder Groups

The Board **DIRECTS** Staff to take the necessary steps to ensure that the EEAG includes: (1) a Workforce Development Working Group, (2) an Equity Working Group, including Comfort Partners and Multifamily Subcommittees, (3) an EM&V Working Group, including an Energy Codes and Standards Subcommittee; and (4) a Marketing Working Group, as recommended by

Staff. The Board also welcomes Staff's recommendations for future Advisory Groups or Advisory Councils to assist in future efforts as necessary.

Regulations

Staff indicated in the Full Proposal that Staff anticipated the development of rules to support several aspects of the EE transition and that the development of those rules would commence after the Board called for utilities to submit their program filings.

Overall, the Board sees the EE framework approved today as closely tracking the directives of the CEA, as opposed to adding any new or additional requirements. The Board's view is also that, while the CEA expressly authorizes myriad aspects of this EE framework, and while many other aspects of the framework are obviously inferable from the specific language of the CEA, the Board acknowledges that certain requirements applicable to the regulated community of electric and gas public utilities in the CEA necessitated clarification or explanation to facilitate compliance with the CEA.

The Board also notes that stakeholders and interested parties have had multiple and ongoing opportunities to review and comment on all facets of the EE framework and its requirements.

Taking all of these aspects of the EE framework into consideration, the Board **DETERMINES** that the EE framework should be codified while the State, public utilities, and stakeholders continue to collaborate to advance implementation of the CEA.

The Board therefore **DIRECTS** Staff to take necessary steps to immediately initiate a rulemaking process to adopt the EE framework contained herein through administrative rules.

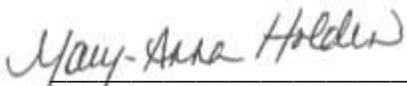
The effective date of this order is June 20, 2020.

DATED: June 10, 2020

BOARD OF PUBLIC UTILITIES
BY:



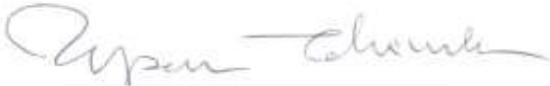
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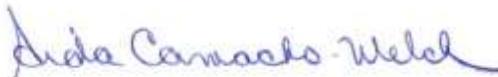


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COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

In the Matter of the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, Docket No. QO19010040

In the Matter of the Clean Energy Act of 2018 – Utility Demographic Analysis, Docket No. QO19060748

In the Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1 – Minimum Filing Requirements, Docket No. QO17091004

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Appendix A to Board Order:

In the Matter of the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs
Docket No. QO19010040

In the Matter of the Clean Energy Act of 2018 – Utility Demographic Analysis
Docket No. QO19060748

In the Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1 – Minimum Filing Requirements
Docket No. QO17091004

STAFF RESPONSES TO STAKEHOLDER COMMENTS ON STRAW PROPOSAL

PROGRAMS

Consolidated Program Offerings

Comments: Several stakeholders presented a joint proposal to consolidate the utility-administered core programs. This realignment would create five core utility programs: Efficient Products (including HVAC, retail products, online marketplace, appliance recycling), Existing Homes (whole building comprehensive projects, including home energy audits), C&I Prescriptive (rebates), C&I Custom (custom incentives for large C&I projects), and Direct Install (small commercial). The commenters claimed that this consolidated approach would reduce administrative costs and customer confusion while also offering an improved customer experience and integrating demand response into energy efficiency (“EE”) offerings.¹

As part of this realignment, the utilities would consolidate several programs previously proposed to be administered separately under a single Efficient Products Program. Several commenters suggested that consolidating the Energy Efficient Products Marketplace, Retail Products Program, Appliance Recycling Program, and elements of other rebate programs for efficient residential products into a single, utility-administered core program would have numerous benefits. Stakeholders listed benefits such as reduced customer confusion and administrative costs, enhanced customer service, and better sales performance as part of the rationale for this recommendation, as well as the ability of utilities to use targeted marketing strategies and tie in other program offerings directly through the utility marketplace. By consolidating these related programs and piggybacking off existing utility systems, these commenters claimed that deeper

¹ New Jersey Utilities Association (“NJUA”), Public Service Electric & Gas Company (“PSE&G”)

savings and greater efficiencies would be unlocked than would be possible through the plan proposed in the Full Proposal.²

Response: Staff generally agrees with the format and rationale of the proposed consolidated utility-administered core program model. However, Staff recommends retaining Multifamily as a core program offering. Please see Staff's rationale for recommending a standalone Multifamily program under the Multifamily Subtopic comment response section.

Additionally, Staff recommends consolidating the Energy Efficiency Products Marketplace, Retail Products Program, Appliance Recycling Program, and elements of other rebate programs for efficient residential products into a single, utility-administered core program. Staff further recommends that this program be delivered via a single statewide online marketplace with utility-specific interfaces, the specifics of which shall be developed through further conversations with the utilities and other key stakeholders. Staff believes that this model will reduce individual utility administration costs and increase equity by enabling all New Jersey residents to access a single platform, while also enabling the utilities to promote customized service and offerings through their individual interfaces.

Residential Programs

Comments: Brittin Built expressed concern that the proposed Home Performance with Energy Star program structure will abandon years' worth of investment in the current program, result in job loss due to the transition to a new program, and increase contractor costs in sales, marketing, and administration. The company also expressed concerns that having the gas utilities provide this program will shut some current participating insulators out of the market because they are not licensed HVAC contractors and that the electric utilities already have contracts with auditors and do not need multiple auditors in their territories. They also asserted that, since the Full Proposal includes insufficient detail about how it will achieve its stated goals, contractors are unable to take a position on the proposal.

MaGrann Associates ("MaGrann") asserted that the utilities are better positioned to offer residential new construction programs because utilities can better react to market changes and are not beholden to the lengthy Treasury approval process.

Response: In response to concerns regarding contractor participation in programs, please see the Competitive Market Topic. In response to concerns over State administration of new construction programs, please see the New Construction Subtopic.

Commercial and Industrial Programs

Comment: Lime Energy ("Lime") requested that the BPU provide a standardized definition of a small business customer.

Response: Staff agrees and recommends standardizing the definition of a small commercial customer in future conversations with the utilities and other key stakeholders.

² Atlantic City Electric Company ("ACE"), Energy Efficiency Alliance of New Jersey ("EEANJ"), Enervee, Jersey Central Power & Light Company ("JCP&L"), New Jersey Natural Gas Company ("NJNG"), NJUA, PSE&G, Rockland Electric Company ("RECO"), South Jersey Industries ("SJI"), Uplight

Large Energy Users Program

Comments: Commenters were generally opposed to Staff's proposal for the Large Energy Users Program ("LEUP") to be a utility-administered core program.³ They proposed removing the LEUP as a core offering, claiming that a single statewide program would not best serve these customers. NJUA argued that the disparate needs, disparate types, and low volume of qualifying entities in each service territory would make a custom-tailored solution more cost-effective. More specifically, NJUA recommended that this customer segment would be best served through other utility-administered core C&I programs (namely, C&I Prescriptive and C&I Custom) or additional utility-led programs.

The New Jersey Large Energy Users Coalition ("NJLEUC"), conversely, advocated to reinstate the LEUP as a State-run program. Expressing the perspective of the state's largest businesses, NJLEUC expressed that the benefits of a utility-led LEUP program (in that utilities have knowledge of large energy users' operations, have open and ongoing relationships with them, take a comprehensive approach to managing large customers' energy consumption, and provide helpful energy conservation recommendations) were significantly overstated. NJLEUC also expressed that many of its members would not be comfortable sharing proprietary and confidential business information with the utilities and may not trust them to carry out a LEUP adequately or with the customers' best interests in mind.

Response: After reviewing stakeholder comments, Staff recommends that the State continue to administer the LEUP. At this time, Staff believes that allowing large energy users to utilize societal benefits charge ("SBC") funds (which are based in large part on their own contributions) to implement EE projects that benefit both the companies and the residents of New Jersey as a whole is both equitable and consistent with the State's policy objectives. Staff finds compelling NJLEUC's arguments that transferring the program from the State to the utilities would not improve or continue the current success of the program. The main benefits of utility-administered programs, such as the opportunity for on-bill financing and quicker processing of incentive payments, are attractive to residential customers and smaller businesses and are worthwhile considerations. However, these program features do not present the same benefits to large energy users and do not outweigh the significant issues with a utility-administered LEUP that have been expressed by large energy users. Staff believes that keeping the LEUP with the State currently better serves the marketplace and helps achieve State energy reduction goals in the near-term, while providing the flexibility to make alterations to the program in later years if needed.

However, Staff does not recommend serving all large energy users through all programs. While certain entities may be eligible to participate in the LEUP, other entities may not wish to pursue the comprehensive projects encouraged via the program and would be better served by other C&I programs Staff recommends for utility administration. Additionally, Staff recommends not serving hospitals through the LEUP, as Staff believes that utilities are better positioned to address the needs of this specific sector.

Combined Heat & Power

Comments: Stakeholders presented a variety of perspectives on how or if a combined heat & power ("CHP") program should be administered. Some commenters supported continued State

³ NJUA, RECO

administration of the CHP program.⁴ They noted that the resiliency and EE benefits of CHP systems are vitally important to hospitals and other facilities that utilize large quantities of energy and need to operate at all times. NJLEUC commented that the State should run a core CHP program, as the utilities lack the requisite expertise to properly administer such a program and may see the technology as a competitive form of generation. Health Care Without Harm also supported State administration of the CHP program and suggested higher incentives for CHP projects that utilize renewable energy sources. In contrast, Ceres commented that the utilities should administer the CHP program, as they are better positioned to proactively identify opportunities and have existing relationships with the design community.

Other stakeholders suggested more substantial CHP changes. The Sign-on Letter Commenters⁵ recommended only incentivizing CHP projects that demonstrate a net lifetime greenhouse gas (“GHG”) reduction in order to ensure that CHP aligns with the State’s larger environmental goals, while the Sierra Club argued for abolishing the CHP program altogether to further reduce New Jersey’s reliance on fossil fuels.

Response: Staff appreciates the variety of comments received in reference to the CHP Program. After review, Staff recommends continued State administration of the CHP Program. Staff continues to view CHP as a valuable and worthwhile EE technology and believes that the State should continue offering incentives for CHP systems. Furthermore, Staff believes that the State is best suited to administer the CHP program, as CHP systems can provide resiliency and other benefits in addition to improved EE that the State has a vested interest in promoting.

However, Staff also recognizes the merit of the arguments for better aligning the CHP Program with the State’s larger environmental goals. While Staff does not recommend any wholesale changes at this time, Staff recommends reevaluating program elements such as increased incentives for CHP projects that utilize renewable energy sources, requiring projects to demonstrate a net lifetime GHG reduction in order to qualify for incentives, and other such design features in future program filings.

New Construction

Comments: Several stakeholders advocated against the State administering any new construction programs. These commenters argued that bifurcating New Construction and Existing Buildings programs within sectors is not in alignment with best practices and that New Construction programs would be better administered by the utilities. They asserted that the utilities can more quickly respond to market changes and process rebates and projects, leading to better program success and contractor and customer satisfaction.⁶

ReVireo noted that new construction programs should be administered following a consistent statewide model and that a State entity is best suited to ensure the consistency critical to new construction program success. ReVireo added that these programs should only use national certifications to limit contractor confusion and increase enforcement of building standards.

⁴ Health Care Without Harm, NJLEUC

⁵ American Council for an Energy Efficient Economy (“ACEEE”), EEANJ, Environmental Defense Fund, Health Care Without Harm, Isles Inc. (“Isles”), The Natural Resources Defense Council, The Nature Conservancy – New Jersey Chapter, New Jersey Conservation Foundation, New Jersey League of Conservation Voters, NJ Sustainable Business Council, PosiGen Solar (PosiGen), Sunowner, Inc., US Green Building Council – New Jersey (“Sign-on Letter Commenters”)

⁶ ACEEE, Ceres, EEANJ, Energy Analysis Group, MaGrann Associates (“MaGrann”)

Response: Staff recognizes and appreciates the concerns some stakeholders have raised regarding the State continuing to administer all New Construction programs. However, Staff continues to believe that the benefits of the State retaining administration outweigh potential downsides. Maintaining an identical program across all utility territories is critical for new construction programs to succeed and requires a level of consistency that surpasses the requirements envisioned for utility-administered core programs. Staff can also more effectively collaborate with other State agencies to ensure new buildings implement and comply with energy efficient codes and standards. Furthermore, Staff believes that transferring many day-to-day program administration duties to the utilities for other sectors will allow for quicker processing of incentives for the smaller suite of programs recommended for State administration, allaying concerns over long payment delays. Staff also believes that a review of new construction program standards for future program filings may help further reduce contractor confusion and lead to sustained program success.

Multifamily Programs

Comments: MaGrann stated that multifamily programs need to be consistent statewide and should be utility-administered.⁷ Other stakeholders commented on the benefits of not having a standalone multifamily program. NJUA, on behalf of the utilities, recommended serving this customer segment through elements of other utility programs rather than through a dedicated program. NJUA claimed that this approach would reduce customer confusion, as well as administrative costs, while still offering program participants pathways and energy saving opportunities that address the multifamily sector's specific needs and market barriers.

Additionally, Energy Analysis Group ("EAG") expressed concerns that a multi-level invoicing process longer than two weeks will lower contractor participation.

Response: Staff agrees that a consistent statewide multifamily program for existing buildings is the best model to serve this customer segment. While Staff appreciates that serving multifamily customers through elements of other utility-administered programs can reduce administration costs, Staff believes that the particular needs and market barriers unique to the multifamily sector necessitate the creation of a dedicated, standalone program. Offering a single multifamily program for existing buildings will ensure that this underserved market has dedicated funding and program elements to address issues such as split tenant and building owner incentives, complexities surrounding installing EE measures without overly disrupting tenants' lives, and other such issues that typically only impact multifamily projects. Contrary to causing market confusion, Staff believes that this approach will deliver a clear signal to the marketplace that multifamily EE projects are a State priority. Additionally, in response to the concern regarding invoicing, Staff believes that quicker application and incentive processing is one of the main benefits of utility-administered programs and does not foresee long delays in processing times being a large factor.

⁷ MaGrann

Low- to Moderate-Income Programs

Comments: A number of stakeholders argued that more attention should be paid to low- to moderate-income (“LMI”) customers, with particular attention on access and affordability,⁸ workforce development,⁹ and a community-centered approach to implementing EE and PDR programs. Multiple commenters stated that a successful LMI program should address barriers to participation, achieve comprehensive whole-house retrofits, and coordinate across programs, agencies and organizations, to achieve goals.

Several commenters recommended coordinating and leveraging multiple programs and funding sources across state agencies.¹⁰ In particular, health and safety issues are a prevalent barrier to implementing EE measures in LMI residences due to the age and condition of dwellings. Several commenters recommended that the Board help to coordinate State agencies in addressing underlying health and safety concerns¹¹ and recommended that New Jersey take a whole-home approach to uniting the various goals around energy, health, climate change, and resilience.¹² Rate Counsel also recommended that the State obtain structured data from contractors to identify the most common health and safety barriers. NJUA noted that a significant portion of the most significant barriers (asbestos, lead paint, mold, roof leaks, moisture in basement or crawl spaces, open sewer or drain lines, leaky plumbing, and insect infestations) are beyond the means of EE budgets. Isles recommended creation of a fund for pre-weatherization work and argued that agencies and companies providing retrofits should be able to more easily braid together lead and weatherization funds from multiple programs. NJUA recommended that the Board lead the exploration of other funding sources in coordination with other state agencies, including the New Jersey Departments of Health, Community Affairs, and Human Services.

Isles also recommended requiring weatherization for all households receiving gas heating assistance and prioritizing customers with the highest gas usage. Isles further recommended combining EE, lead safety, healthy homes, and solar (both community and rooftop) and allowing for flexibility in measures based on unit-specific needs. The New Jersey Environmental Justice Alliance (“NJEJA”) also suggested that addressing the energy needs of EJ communities could include EE as well as renewable energy projects.

Other barriers to participation identified by stakeholders included lack of awareness of programs, the complexity of program participation navigation, split landlord/tenant incentives, lack of upfront capital, social barriers, and language barriers. Rate Counsel recommended that the State partner with community groups on providing consumer education and offering tailored programs. NJEJA and Ironbound Community Corporation (“ICC”) emphasized that the State

⁸ American Association of Blacks in Energy (“AABE”); Paula Harrington, Association Business Solutions (“Association Business Solutions”); Rate Counsel

⁹ Bruce Grossman, Building Performance Association (“BPA”), “Equity Sign-on Letter Commenters” (Energy Efficiency Alliance of New Jersey, PosiGen Solar, Healthcare Without Harm, New Jersey Sustainable Business Council, New Jersey PIRG, Vote Solar Action Fund, GreenFaith, Isles, Environment New Jersey, US Green Building Council – New Jersey, New Jersey League of Conservation Voters, Environmental Defense Fund, Affordable Housing Alliance), Isles, NJ SHARES, Utility Advantage

¹⁰ ACE, Bruce Grossman, Equity Sign-on Letter Commenters, Isles, NJEJA, NJ SHARES, ICC

¹¹ACE, Bruce Grossman, Equity Sign-on Letter Commenters, ICC, Isles, NJEJA, NJNG, NJ SHARES, RECO

¹² Equity Sign-on Letter Commenters, Isles, NJ SHARES

should take a community-centric approach to implementing EE and PDR programs and fund local and diverse community based organizations such as “urban community energy utilities” to help deliver EE to low-income and other EJ customers, including through community energy assessments and planning, energy-related community education and job training, and administration of local energy projects and programs.

Many commenters suggested further coordination on addressing LMI barriers in the state. Equity Sign-on Letter Commenters suggested that in order to effectively coordinate equity considerations across all programs, New Jersey should create an Office of Energy Equity. Several comments supported developing a unified and comprehensive marketing and communications plan or brand for LMI programs to increase participation of low-income customers.¹³ Envervee supported a statewide utility marketplace with a customer-centric approach to address the issue of high plug loads and providing EE products to LMI customers.

Isles suggested unifying the disparate EE systems serving low-income customers, such as making the application process and documentation requirements less burdensome, and raising the qualification to between 80%–100% of the HUD median. Multiple commenters suggested reducing the documentation hurdle for low- and/or moderate-income programs, such as by using geographic location for qualification (e.g., census tracts, Urban Enterprise Zones, Opportunity Zones, environmental justice communities) instead of household income.¹⁴ Isles also asserted that the program should focus on small businesses in LMI communities.

Several commenters asserted that, in order to succeed in achieving universal access and equity, the State must allocate more funding to lower- and moderate-income households.¹⁵ AABE argued that the allocation should be three to four times more than what the State is proposing. ACEEE recommended establishing a minimum spending and/or savings target requirement for low-income customers. ACEEE referenced 18 states that require a minimum threshold or percentage of spending on LMI programs and argued that New Jersey should establish similar thresholds.

Commenters stated that Staff should consider the results of the demographic analysis before making final decisions on program design and cost.¹⁶

Isles suggested that Staff should get feedback from contractors, customers, and other stakeholders to meet customers where they are and to understand the dynamics of delivering these services effectively. Isles also suggested that programs should utilize a variety of delivery methods, giving customers more choice and control.

Some commenters suggested that there should be more low- and moderate-income EE programs in addition to Comfort Partners. SJI noted that SJG and ETG support expanding current moderate-income programs that would allow for automatic eligibility for specific geographic locations. NJEJA and Ironbound Community Corporation (“ICC”) emphasized that the State should take a community-centric approach to implementing EE and PDR programs and fund local and diverse community based organizations such as “urban community energy utilities” to help deliver EE to low-income and other EJ customers, including through community

¹³ Isles, Jeanne Fox, NJNG, Guidehouse

¹⁴ Equity Sign-on Letter Commenters, ICC, Isles, Jeanne Fox, NJEJA, SJI

¹⁵ AABE, ACEEE, NJEJA

¹⁶ ACE, NJ SHARES

energy assessments and planning, energy-related community education and job training, and administration of local energy projects and programs.

PSE&G, SJI, RECO commented that the utilities should administer LMI programs, and asserted that the co-managed model would unduly hamper equal access to EE in the state.

Lastly, NJEJA posed the following questions: 1) How many residents do current New Jersey – low-income programs service? 2) How many residents should be eligible for current New Jersey low-income EE programs based on income alone? 3) What is the race of residents enrolled in New Jersey low-income EE programs? 4) What percentage of New Jersey residents who apply to low-income EE programs actually complete the application process and gain entry into the programs? 5) How many New Jersey residents who participate in low-income EE programs receive the most extensive EE services?

Response: After review of the stakeholder comments, Staff recommends a number of changes and action items related to equity and programs for LMI customers. First, Staff recognizes that health and safety issues represent a major barrier for LMI customers attempting to enroll in Comfort Partners and other potential programs. To address this barrier, Staff recommends partnering with State agencies, community organizations, and others through the proposed working groups to collaboratively formulate an action plan to address health and safety barriers, including channeling non-SBC funding sources to perform needed renovations.

Additionally, Staff recommends adopting automatic census tract enrollments, or similar alternatives to income-eligibility criteria, to eliminate intrusive and complicated enrollment qualifications currently limiting LMI program accessibility. While the exact mechanism and details for implementation will require further deliberation and should utilize the results of the demographic analysis, Staff believes that this is a crucial step in ensuring equitable and widespread access to LMI programs. Staff further recommends instituting job training and workforce development initiatives as part of LMI program offerings and encourages stakeholders to reference the Job Training and Workforce Development Subtopic for additional recommendations on this matter.

Furthermore, Staff recommends using standardized definitions for low-income and moderate-income customers will eliminate confusion and conflicts in terminology. Staff recommends that the Board adopt standard definitions across all EE and PDR programs, initiatives, and other relevant material, the specifics of which will be developed through future conversations with the utilities and other key stakeholders.

Staff also recommends requiring core utility residential programs to include specific opportunities that ensure access to EE for low- and moderate-income customers, who are not eligible for the co-managed low-income program. Staff further recommends evaluating a minimum LMI spending threshold or other cost allocation structure in the near future.

Staff disagrees with the notion that the utilities alone should implement low-income programs. The State has a vested interest in ensuring that these vulnerable customers have adequate and full ability to participate in programs, and Staff recommends continuing the co-managed model for Comfort Partners. Staff further notes the ability to collaborate cross-agency to reduce deferrals and work to develop linkages between programs for energy efficiency, health, comfort and safety.

Finally, Staff believes that some of the questions posed by NJEJA are answered in the demographic analysis, while others will be evaluated by the Equity Working Group recommended by Staff.

Peak Demand Reduction Programs

Comments: Several stakeholders submitted comments regarding peak demand reduction (“PDR”) programs. The Clean Energy Group (“CEG”) urged Staff to include PDR as a main element of this transition and to require the utilities to address PDR with the same urgency as EE. A number of commenters noted that the Full Proposal did not include specific mention of energy storage and urged Staff to explore ways to increase New Jersey’s energy storage capacity,¹⁷ perhaps through making behind-the-meter program options like a “Bring Your Own Device” program a pilot and then core offering.¹⁸

Some commenters also touched on the role of Advanced Metering Infrastructure (“AMI”) in achieving New Jersey’s clean energy goals. While AARP stated that AMI is still too expensive for an expanded rollout at this stage and requires additional study before implementation, the Building Performance Association (“BPA”) stated that the technology will greatly benefit New Jersey by providing consumers with greater control and understanding of their energy, as well as allowing for more in-depth and accurate evaluation of EE programs while offering load control capabilities. BPA also asserted that technology such as AMI, smart thermostats, and home energy management systems will play a large role in demand flexibility and should be included more heavily in future programs.

The Sierra Club advocated for the creation of a Microgrid Program in the model of the BPU’s existing Town Center Distributed Energy Resources (“TCDER”) Microgrid Program to provide increased grid resiliency while cutting emissions and providing a number of other benefits. The Sierra Club also called for an expansion of EV-related programs, such as time of use charging rates and Vehicle to Grid incentives to further bolster the EE and PDR benefits that EVs provide, as well as for encouraging heavy-duty EV adoption by providing more incentives for EV chargers at warehouses, airports, and ports.

Response: Staff fully recognizes the important role PDR programs will play in New Jersey’s energy efficient future and agrees that offering programs that integrate EE and PDR wherever possible is critical to helping us reach our clean energy goals. Staff also acknowledges the key role that energy storage and bring your own device programs will provide in PDR programs in the future and that energy storage is energy efficiency. However, Staff also recognizes the dramatic shift in responsibilities and roles that will occur should the Board accept Staff’s recommendations and notes that not all New Jersey’s utilities are beginning from an equal starting point to comply with the Board’s requirements. While some utilities have a long history of administering EE programs in the state, others will have to invest more significant amounts of resources to meet even the new minimum requirements. Therefore, Staff recommends keeping to the proposal to not require any PDR programs as core offerings for the first three years of the new framework but rather allow utilities to file such programs as desired as additional utility-led initiatives. Staff also recommends not requiring immediate implementation of these programs but rather allowing these programs to begin by PY4 at the latest. Staff anticipates imposing more stringent requirements for future program filings and reiterates that utilities should absolutely integrate PDR and demand response programs into their EE portfolio wherever possible and file any such programs deemed feasible.

As for AMI, the State is in the midst of a separate proceeding on the topic and, as such, Staff recommends addressing AMI through that proceeding. Staff is also in various stages of research and program implementation for microgrids, EVs, and related infrastructure and

¹⁷ Clean Energy Group, Sierra Club

¹⁸ Sunrun

recommends continuing to expand these offerings through State processes. Utilities may also file programs or initiatives related to these technologies.

Codes and Standards

Comments: Some commenters recommended that the State place a greater emphasis on codes and standards, as establishing and enforcing more efficient building codes could reduce program costs by avoiding paying incentives for energy savings that could be required through code compliance.¹⁹ These commenters also claimed that the State is best positioned to push innovation through codes and standards and should dedicate a greater portion of its focus to these initiatives.

Gabel Associates recommended that the State expand efforts to realize the potential for savings from codes and standards in New Jersey, which may be great compared to other states since New Jersey lacks a history of implementing any codes and standards programs; and called on the DCE engage utilities and other stakeholders to share insights from the marketplace and interactions with trade allies to build a shared understanding as the State pursues codes.

ReVireo reiterated the importance of enforcing code compliance and suggested that the proposed energy codes review panel include representatives from a variety of relevant industries. The New Jersey Builders Association (“NJBA”) requested to be part of this review panel, and NJNG encouraged a robust opportunity for utilities and other stakeholders to share insights regarding existing practices in the field – such as regarding the issue of ensuring sizing compliance with all installations – and anticipated impacts of proposals as part of the consideration of the adoption and enforcement of codes and standards. ReVireo and NJNG recommended expanded training opportunities for code officials and industry professionals.

Response: Staff appreciates the comments urging greater focus on EE codes and standards development and enforcement. Staff believes that these initiatives will be instrumental in achieving the State’s energy and environmental goals and agrees that more resources should be allocated towards this area than in prior years. However, Staff disagrees that codes and standards should comprise the majority of the State’s focus as far as implementation and oversight of EE programs is concerned and believes that the BPU can and should play a strong role in codes and standards enforcement and education while also administering other programs and retaining robust oversight of utility-administered programs. Staff recommends establishment of an Energy Codes and Standards Subcommittee within the EM&V WG that will include key stakeholders representing myriad industries to discuss existing practices and explore opportunities related to the adoption and enforcement of codes and standards.

Commenter-Proposed Programs

Comments: Many commenters proposed program ideas that Staff did not include in the Full Proposal. The Vermont Energy Investment Corporation (“VEIC”) suggested including a midstream products program as a core offering in order to create more opportunities for efficiencies higher up on the supply chain and working with product retailers to subsidize efficient products while reducing administrative costs. VEIC also encouraged Staff to include building electrification measures more expansively in its next proposal and noted that any State-

¹⁹ Ceres, EEANJ, SJI

administered R&D should include more specific details on its scope and technologies for stakeholder review.

The Sierra Club also touched on building electrification, advocating for enhanced fuel-switching incentives and an expansion of geothermal technology where feasible. The Sierra Club further proposed a Clean Energy Manufacturing Program to reduce New Jersey's reliance on fossil fuels. Signify proposed a dedicated streetlight program to upgrade New Jersey's inefficient streetlights and yield additional energy savings.

The Alliance to Save Energy ("ASE") advocated for utility involvement in K–12 energy education programs, echoing NJNG's claims that these partnerships are crucial ways to get students to think about EE from an early age and meet the State's overall clean energy goals.

Response: Staff agrees with the suggestion to add a midstream products program and recommends requiring the utilities to include this as a feature of the recommended consolidated EE Products Program. Staff also agrees that building electrification measures should be included more prominently but thinks that it may be premature to impose any strict requirements for such measures at this time. To that end, Staff encourages utilities to include proposals for electric heat pumps and other strategic electrification measures where feasible and cost-effective. Staff further encourages utilities to incorporate incentives and provide opportunities for fuel switching and geothermal adoption where feasible and cost-effective.

Staff sees merit in streetlight programs, clean manufacturing programs, and other such proposed programs but does not believe that these should be core offerings, as they may not be necessary or feasible in all utility territories. Staff encourages utilities to propose any such programs as additional initiatives but does not recommend making them required programs at this time. Furthermore, Staff appreciates the desire for utility involvement in K–12 energy education programs but believes that such a curriculum can be developed at the State level without utility branding.

Financing Options

Comments: While numerous commenters expressed their support for on-bill financing options, several commenters raised concerns with the proposed financing options. Energy Analysis Group questioned whether each utility would run its own financing program or if loans would be handled by independent third-party groups. CrossState Credit Union Association expressed concern that the Full Proposal made no mention of the cuGreenLoan program or other financing options besides on-bill repayment and further noted its extensive work on behalf of the NJCEP programs.

Response: Staff's would like to clarify its position regarding on-bill financing and other financing options. It is Staff's position that all utility-administered programs should offer customers flexible financing options to create a more streamlined, attractive payment process. However, Staff also believes the utilities should have the ability to propose their own individual repayment options in their filings. This program component could be handled by the utility itself or via a third-party and could be comprised of on-bill repayment, a credit union loan program, or any other such mechanism.

Data Access

Comments: Several stakeholders submitted comments regarding data access. CPower called on the Board to ensure non-discriminatory access by customers to their energy usage data,

which would promote a competitive EE program. BPA added that, through requiring utilities to implement Green Button connectivity, the BPU could “increase customers’ access to their utility data, while also maintaining rigorous privacy and security standards.”

Response: Staff recommends that the Board require utilities to make current and historical customer usage data easily and fully accessible to each customer, with the data remaining the property of the customer, and to any third parties to whom customers wish to disclose data in order to facilitate energy benchmarking. At a minimum, this data should be available at a monthly interval and must include any necessary protections from inappropriate release.

Marketing

Comments: Overall, there was strong stakeholder support for the marketing approach laid out in the Full Proposal, wherein the State will market statewide, general awareness of EE opportunities while utilities will implement more directed, custom marketing of specific programs and initiatives.²⁰ Gabel Associates recommended a new statewide brand (not the Clean Energy Program) centered around customers reducing consumption and saving energy, with marketing and advertising decisions established and guided by utilities and participation by the Board. Ceres and Lime also suggested assessing brand effectiveness over time to ensure optimal program uptake and success, with Lime adding that marketing should be data-driven and spearheaded by the utilities. Additionally, the Latino Action Network noted that providing more Spanish-language program and marketing materials and working with local media and Latino community organizations would help outreach to harder to reach market sectors.

Response: Staff appreciates the general support for the proposed marketing approach and agrees that marketing should be data-driven and assessed over time to ensure effectiveness. Staff recommends establishing a Marketing Working Group wherein Staff and utility representatives can collaborate on messaging, branding, and other such elements to create a consistent, effective marketing campaign. Staff also agrees with the recommendation to offer marketing materials in Spanish and other languages in addition to English and recommends that the Marketing Working Group partner with community organizations and media entities to most effectively reach this customer segment.

Program Design Flexibility

Comment: NJACCA and multiple contracting companies²¹ (“NJACCA”) raised several questions and concerns regarding anything short of total statewide consistency. NJACCA noted that if utility programs and system differed in areas like application forms, software platforms, program design, etc., contractors would be significantly less inclined to participate in the programs. NJACCA further stated that, without statewide consistency to the fullest extent possible, their members and other contractors across the state would not fully participate in EE programs, greatly limiting any possibility of the State achieving its energy reduction goals.

Response: Staff appreciates and fully comprehends the concerns raised in these comments. Clearly, without full contractor buy-in, the State will be extremely hard-pressed to meet the

²⁰ Ceres, NJUA, RECO, VEIC

²¹ Air Group LLC; Alber Service Co.; Ben’s ProServ; Bloomfield Cooling, Heating & Electric, Inc.; Bovio; Harriet’s Energy Solutions; Hutchinson; Oceanside Service Inc.; Rubino Service Co.; T.J. Eckhardt Associates, Inc.

CEA's ambitious targets. From the very beginning of the EE stakeholder process, Staff has made statewide consistency in program design and delivery one of its core principles, both to ensure maximum contractor awareness and to provide equitable program access to all New Jersey residents.

However, Staff also notes that the CEA places mandatory savings targets on the utilities. Furthermore, the utilities are better positioned to administer a large portion of the envisioned EE portfolio and need to be provided the flexibility to meet targets and conserve as much energy as is possible and cost effective. For this reason, Staff has proposed the Core Program model as a means to compromise between consistency and flexibility. Having a set of core programs with the same design features, eligibility requirements, and other key principles delivered in the same manner across New Jersey will maintain statewide consistency in most key areas, while allowing budget and incentive flexibility will create programs that are more reflective of changing market conditions. This flexibility should benefit utilities and contractors alike by creating more attractive programs for every customer segment, leading to more jobs and greater energy savings. At the same time, keeping the majority of established EE programs the same across the state will reduce the need for contractors to manage constantly changing program designs. Staff recommends that the utilities and State both coordinate with trade allies on messaging, program design elements, incentive levels, and other such program components to the greatest extent possible.

Budgets

Comments: Staff received numerous comments regarding the proposed program budget projections based on the cost to achieve scenarios outlined in Appendix E of the Full Proposal. Many stakeholders argued that the proposed ranges were too narrow to meet the CEA's ambitious energy savings targets and further expressed concern regarding a lack of explanation of the methodology used to establish these ranges, as well as concern that the cost to achieve scenarios do not accurately reflect New Jersey's costs. For example, Gabel Associates argued that (1) EE in New Jersey will be more expensive than in Massachusetts and Rhode Island until the programs reach a mature state and (2) retrospective cost to achieve estimates from other states should not be used prospectively. Commenters proposed expanding the allowed variance in proposed costs to 25% of the cost maximum,²² eliminating the requirement that utilities adhere to the cost to achieve scenarios and instead offering the scenarios as guidance²³ or removing any mention of the cost to achieve energy savings altogether.²⁴

Response: Staff would like to clarify its position on this topic. The cost to achieve scenarios are intended as guidance for the utilities based on information that Staff has received and researched regarding best practices in other jurisdictions. Staff is aware that these figures may not be entirely representative of the cost to achieve in New Jersey, especially in light of current economic and social conditions, but believes that offering some guidance to utilities is an important means to keep costs reasonable while allowing program costs that are robust enough to meet the CEA's ambitious targets.

To that end, Staff clarifies that these cost to achieve projections are not hard caps on what utilities can propose; rather, if utility budgets are based on costs to achieve that vary from the

²² JCP&L

²³ ACE, ACEEE, NJUA, PSE&G

²⁴ Gabel Associates, Sign-on Letter Commenters, SJI

proposed amounts by more than 10%, the utilities would be required to provide additional rationale in order for Staff to consider approving the proposed budget.

Budget and Incentive Flexibility

Comments: There was significant stakeholder input urging Staff to provide the utilities with greater flexibility to shift program budgets both within a sector and between sectors, as well as greater flexibility in modifying incentive levels.²⁵ Commenters argued that limiting flexibility would prevent the utilities from quickly adapting to address market conditions and take advantage of opportunities as they arise. Gabel Associates recommended that utilities be permitted to transfer budgets between programs without any limitation, aside from notification, and that utilities only be required to seek permission to exceed overall program budgets approved by the Board. Multiple commenters proposed allowing utility program budget shifts of up to 50% with Staff notification, while shifts greater than 50% would require Board approval.²⁶ JCP&L also proposed more limited ranges for budget shifts involving LMI and small commercial programs to respond to Staff's proposal that any shifts involving those programs would require full Board approval, while EEANJ fundamentally disagreed with Staff's proposal and noted that budget carve outs are a more appropriate way to ensure that these groups retain adequate funding. EEANJ further advocated for the removal of any requirement to report budget shifts within a sector.

For shifts between different sectors, some stakeholders proposed allowing utilities to shift budgets up to 25% with Staff notification, with any shifts greater than 25% requiring Board approval.²⁷ EEANJ cautioned against the use of the word "sector," arguing that it leaves too much up to interpretation. VEIC and Lime noted a typographical error in Staff's proposal that inadvertently created a gap between 5% and 10% shifts allowed.

As for incentive adjustments, a number of commenters advocated for allowing increases of up to 50% with Staff notification and increases of over 50% with Board approval, with incentive decreases of any amount permitted with Staff notification.²⁸ RECO proposed allowing utilities to modify incentives as necessary with Staff notification. Lime suggested that if the Board did not approve a request for a budget or incentive modification within 20 days, the request should automatically be approved.

NJACCA submitted comments raising questions about how the Board proposes to maintain statewide consistency of program delivery while allowing utilities the flexibility to alter budgets and incentive levels as needed.

Response: After reviewing stakeholder comments, Staff agrees that utilities should be given increased flexibility in modifying program budgets and incentive levels to best adapt to market conditions. However, Staff disagrees with the suggestion to remove requirements to inform Staff of even minor budget or incentive shifts. In order to retain effective oversight of programs and limit the burden on trade allies participating in these programs, Staff must be made aware of changes in order to balance the need for statewide consistency with the need for utility flexibility. Furthermore, to avoid undue contractor confusion, the utilities should prioritize

²⁵ ACEEE, EEANJ, Gabel Associates

²⁶ ACE, JCP&L, NJUA, RECO, SJI

²⁷ ACE, JCP&L, NJUA, SJI

²⁸ ACE, BPA, EAG, JCP&L, MaGrann, NJBA, NJUA, SJI

communication with trade allies and implementation staff when making any changes. To that end, Staff recommends the following structure:

- Programs within a sector:
 - Utilities can shift budgets up to 25% with Staff notification, 25%–50% with Staff approval, and over 50% with Board approval.
- Between sectors:
 - Utilities can shift budgets between sectors up to 5% with Staff notification, 5%–10% with Staff notification, and over 10% with Board approval.
- Incentives:
 - For core utility-administered programs, the utilities shall propose incentive ranges within which they can adjust incentives as needed with Staff notice; incentive shifts outside the approved ranges requires Staff approval.
 - For additional utility initiatives, utilities can increase incentives up to 50% with Staff notification, over 50% with Staff approval, and can decrease incentives as needed with Staff notification.

In order to prevent undue administrative lag time, Staff recommends that should Staff-level budget approvals not be responded to within 30 days, the request be automatically granted. An objection from Rate Counsel within 30 days will also require Staff review within 30 days of the objection. Similarly, should any Staff-level incentive shift requests not be responded to within 15 days, the request will be automatically granted. An objection from Rate Counsel within 15 days will also require Staff review within 15 days of the objection. Furthermore, Staff recommends adding a requirement that no shift within or between sectors can result in a program being shut down.

Additionally, in response to the concern regarding vagueness of sectors, Staff recommends defining sectors as the following:

- Residential
- Commercial & Industrial
- Multifamily
- Pilot

Staff also recommends revisiting this structure after the first triennial review period to make modifications as necessary.

Competitive Market Impacts

Comments: Direct Energy recommended that, wherever possible, the Full Proposal should mimic the policy declarations in the EMP that support competitive bidding processes to ensure the broadest participation of competitive market forces and providing the lowest and best value to customers who bear the cost of utility-run programs.

Several stakeholders brought up concerns similar to those of contractors that assigning so many programs to the utilities will greatly limit contractors' ability to participate in EE programs. Numerous groups submitted comments urging the Board to set requirements that ensure fair and equal competition in the market and to set parameters for program implementation that ensure that all programs are accessible.²⁹

²⁹ EAG, NJACCA

Sunrun noted that statewide consistency in core offerings will help reduce market confusion and drive down costs by allowing competitive service providers to develop consistent EE and PDR products across utility territories. More specifically, Sunrun recommended the adoption of affirmative requirements for utilities to provide pathways for competitive market providers to deliver EE and PDR offerings.

Others echoed some of these thoughts, noting that many of the proposed utility-administered core C&I programs (e.g., LEUP, Retrofit – SmartStart Program) are duplicative of services or efforts already provided by competitive market participants at no additional cost to the ratepayer.³⁰ Direct Energy recommended that the Board should reconsider retaining under State administration any program where such duplication exists, particularly in a sector where the vast majority of load is already being served by a third-party supplier.

Response: Staff understands the concerns regarding contractors' ability to participate in programs going forward. To address these concerns, Staff recommends requiring utilities to use open and competitive procurement protocols where feasible to maximize the ability of contractors to participate in utility-administered core programs. In addition, contractor eligibility requirements should be consistent across utility territories and included as part of program filings.

As for the comments submitted by competitive suppliers and other third-party market participants, Staff agrees that competition in this market can reduce customer costs and lead to innovation, and believes entities currently operating in this space should remain able to do so. However, Staff also notes that the CEA puts the onus to achieve substantial energy reductions squarely on the utilities, and as such the utilities must be given the means and opportunity to meet their statutory obligations, which includes administration of a significant portion of EE and PDR programs in the state. Staff believes there are potential partnerships between the utilities and other market participants that may benefit all parties and supports the principles of a competitive marketplace but does not recommend making any further changes to staff recommendations at this time.

JOB TRAINING AND WORKFORCE DEVELOPMENT

Comments: A number of stakeholders submitted comments in favor of EE and other clean energy sector job training programs. The Eastern Atlantic States Regional Council of Carpenters noted that jobs associated with EE programs have higher-than-median hourly wages and a higher percentage of union representation, compared with the rest of the workforce, which creates a powerful opportunity to create good jobs, including for construction workers, that are critical to addressing climate change and building a clean energy future. Many stakeholders agreed that a particular focus on job training and workforce development in LMI and urban communities for underserved, underemployed, or unemployed individuals should be a key part of this EE transition.³¹ Isles noted that delivering low-income weatherization to a large number of households provides an opportunity to energize financial and health benefits to residents, new jobs for unemployed or underemployed workers in the EE field, and new economic activity generally. Isles expressed readiness on behalf of itself and other vocational training organizations to provide training to hundreds of new, nationally-certified, entry-level and

³⁰ CPower, Direct Energy

³¹ African American Chamber of Commerce of New Jersey, American Association of Blacks in Energy, Association Business Solutions, Hon. Carmelo Garcia, Isles, Jeanne Fox, NJ NAACP, New Jersey Black Issues Convention, PSE&G, Robert Fell, Salvation and Social Justice

advanced EE workers to provide staffing for contractors working in low-income communities. Jeanne Fox called for a statewide training effort combining EE, solar, and possibly other EE technologies for LMI people, in coordination with the New Jersey Department of Labor and Workforce Development and possibly also with the EDA, and Departments of Environmental Protection and Community Affairs. Healthcare Without Harm also recommended that funding be allocated to utilities to provide technical expertise and training to hospital facility staff so that efficiency investments are operated and maintained effectively.

Response: Staff agrees with the numerous stakeholders that advocated for enhanced job training and workforce development programs for LMI communities. Especially in light of the COVID-19 pandemic, it is more important than ever to bolster our economy and protect New Jersey residents who carry a disproportional energy burden. Creating a homegrown workforce of EE professionals who can earn well-paying jobs in a sector that simultaneously advances State policy objectives will benefit all New Jersey residents. To achieve this goal, Staff recommends that the utilities and State work together and with other key stakeholders through the Workforce Development Working Group to establish and advance job training and workforce development partnerships and pipelines for EE jobs in LMI communities for utility core programs and additional initiatives, as well as for State programs and initiatives. Staff agrees that partnering with community groups to set up training programs and directly engage and train community members to enable them to deliver EE in their geographical location will be crucial in developing effective programs that serve all of New Jersey. Staff also believes that classes and training opportunities should continue and be expanded upon at New Jersey's vocational schools and community colleges. Staff recommends that the Workforce Development Working Group consult and collaborate with community representatives, training institutions, contracting organizations, and others to develop this pipeline to well-paying jobs and a more diverse EE workforce.

APPLICATION OF UTILITY TARGETS

Metrics

Comment: Several commenters, including VEIC and Lime, supported the multifactor approach to metrics. EEANJ suggested that there could be fewer metrics and a balance among program costs, as well EE and goals. NJLEUC stated that metrics should be based on appropriate factors, properly weighted, and consistently applied, in particular with regard to the benefit-cost analysis.

Response: Staff appreciates the comments and support for the multifactor approach. Staff has attempted to balance the elements of the metrics through this approach and has recommended to phase in the metrics in order to ensure easier adoption and clarity in the definition of each metric.

Comment: Several commenters, including Chemistry Council of NJ, NJ Environmental Justice Alliance, MaGrann, Uplight, EEA-NJ, and ACEEE, suggested potential alternative or additional metrics. Some examples include ratepayer impacts, primary BTU savings, less quantitative justice and equity metrics (such as the number of enrolled low-income and people of color residents enrolled in programs, the percentage of eligible low-income and people of color residents enrolled in the programs, the extent of services received by low-income and people of color residents, and the amount of non-GHG reduction in environmental justice communities

connected to low-income EE programs), equity, customer experience, carbon emissions/decarbonization, climate change, beneficial electrification (buildings and transportation), and greenhouse gas emissions reductions.

Response: Staff thanks commenters for their thoughtfulness in this regard and will consider additional metrics in future through the triennial review process. In proposing these metrics, Staff has tried to balance all of these priorities and hopes that commenters see elements of the priorities expressed in comments within the proposed metrics. Additionally, Staff favored metrics that can be reasonably and reliably calculated through quantitative means and has recommended to exclude not-quantifiable metrics.

Comment: NJUA, Ceres, ACE, and EEANJ believe that the Societal Cost Test is consistent with the CEA and as such should be used as the cost-effectiveness metric.

Response: Staff appreciates the comments but would like to emphasize that the use of the UCT in the metrics is separate and apart from other EM&V and cost-effectiveness testing, as required by the CEA. Staff recommends the UCT in the metrics because it is easier to quantify for utilities, and Staff believes it is important to support predictability because the utility penalties and incentives are based on the metrics. Staff recommended this emphasis on cost-effectiveness in order to promote easier understanding of the QPI and penalty/incentive calculations.

Comment: Several commenters, including EEANJ, recommended that the utility-run programs and the State-run programs should be subjected to the same metrics.

Response: Staff agrees and has recommended that, although only utilities will be eligible for incentives and penalties, the State and utilities should report program performance according to the same metrics.

Comment: Sunrun and Clean Energy Group noted that active demand management is not initially reflected in the metrics and does not have an associated core program. They believe that active demand management offers significant opportunity for PDR and should be a core program requirement. Clean Energy Group also noted that energy storage could play a role here.

Response: Staff appreciates these comments and envisions that active demand management will be an important aspect of future metrics and program plans. For the first program filing, demand management programs are not a current core program filing and as such, Staff has deferred the inclusion of active demand management in the metrics but continues to encourage utilities to file such programs. Staff also recognizes that, as PDR programs are recommended to become mandatory in PY4, a review of the associated metric definitions for that period is appropriate to re-evaluate the inclusion of active demand management. Further, Staff acknowledges the important role energy storage plays in EE and looks forward to further Board action which will address this critical issue in a more holistic manner.

Comment: ACEEE suggested a metric or other incentive mechanism for utilities that includes the overall savings goal (including BPU-administered program savings) so that the utilities are incentivized to collaborate with NJCEP.

Response: Staff agrees that collaboration is critical but has attempted to be responsive to many comments from stakeholders regarding concerns that utility incentives and penalties not be dependent on the performance of State-administered programs and initiatives. Staff will consider this and other program design to support utility/State collaboration in the future.

Comment: Gabel Associates suggests that Staff remove all weights and metrics for PY4 and PY5 and revisit them during the triennial review.

Response: Staff appreciates the suggestion and agrees that it is important that the weights and metrics are revisited, but has also received feedback that it is useful for utilities and others to plan more into the future. Therefore, Staff has recommended preliminary weights and metrics for PY4 and PY5 in order to assist with long-term planning and anticipates still giving full consideration to those items in the triennial review.

Comment: Gabel Associates suggested that program administrators should propose an LMI target to increase delivery of programs to low- and moderate-income communities.

Response: Staff appreciates Gabel Associates' comment and agrees that attention should be paid to potential LMI specific spending and savings targets, in addition to the recommended LMI energy savings metric. Staff intends to engage with the utilities and other stakeholders in further discussing the metrics as a whole as part of the triennial review process.

Comment: ACEEE supported Staff's proposal of tracking and reporting performance based on all metrics, but basing incentives and penalties only on annual and lifetime energy savings in MWh and therms.

Response: Staff thanks ACEEE and appreciates ACEEE's time and comments.

Comment: Rate Counsel noted that further definition of the metrics is necessary to evaluate if the QPIs and weighting are proper. Rate Counsel also noted that it is important that there is balance in order to avoid de-emphasizing important policy goals. Specifically, Lime noted that the criteria for a small business will need to be explicitly defined and suggested that using energy use is the best way to define a small business and, specifically, that the cut off for a small business should be a maximum load of 300-kW based on the billing month of the year with the highest average kW.

Response: Staff agrees that further discussion on the metrics is needed and appreciates the specific recommendations. Staff recommends discussing the definitions and inputs with utilities and stakeholders throughout the summer and during the next triennial review to ensure that the inputs to metrics are clearly defined and replicable.

QPIs

Comment: NJUA and NJNG suggested that QPIs should not be established until after the first triennial review and that program performance and development should be the focus in the first few years.

Response: Staff appreciates the comments and notes that, in order to assist in the focus on program transition and development, Staff recommends the delay of the penalty/incentive

period until the end of PY5. Developing and reporting performance based on QPIs in the interim will allow all program administrators to improve the process ahead of the implementation of penalties and incentives in PY5.

Comment: ACEEE suggested that the State should increase its accountability and report its performance related to QPIs in a way that mirrors the utilities' performance. ACEEE further recommended more clarity on the State's timelines and mechanisms for accountability and recommended that the QPIs be closely connected to the performance-based incentives and penalties.

Response: Staff agrees and has recommended that the State report savings according to the same metrics and QPIs and along similar timelines as the utilities in order to promote transparency and collaboration.

Comment: RECO argued that the QPIs are excessive and should be reduced.

Response: Staff anticipates that the phase-in of metrics and the target ramp-up will allow the utilities ample time to achieve energy use reductions, which will be an important part of achieving New Jersey's 100% clean energy goals.

Weighting

Comment: ACE suggested a different metrics and weighting structure, as follows: 60% for annual energy savings, 30% for cost effectiveness, and 10% for low-income programs.

Response: Staff appreciates ACE's recommendations but has recommended to put emphasis on lifetime savings goals. The cost-effectiveness and low-income metrics are important to achieving policy goals while ensuring cost-effectiveness, but Staff recommends taking additional time to develop and define the inputs for calculating these goals.

Comment: NJLEUC supported the weighting in the proposal and noted that the metrics encourage a holistic approach to energy usage reductions and discourages companies from only going after "low hanging fruit." NJLEUC further notes that the utilities have touted their ability to better-administer the programs, so they should be held accountable for that success.

Response: Staff thanks NJLEUC for this comment.

Comment: Some commenters, including Gabel Associates, argued that the LMI metric should be weighted higher, as it competes with the UCT metric.

Response: Staff appreciates this comment and has recommended a higher weight on the low-income metric as a result.

Penalties and Incentives

Comment: Commenters, including NJUA, ACE, JCP&L, and RECO recommended that penalties and incentives should not come into play until PY5. Specifically, RECO suggested that the first three years should focus on improving the delivery of programs to capture more

energy savings, ensuring a positive customer experience and supporting trade allies to help grow the economy. Similarly, Gabel Associates suggested that there should be no incentives for the first three-year period while utilities are establishing programs and transitioning programs away from DCE, and RECO stated that penalties should start after the first three years. RECO argued that the first three years should be used to ensure a smooth transition of programs, establish baseline performance, and perform New Jersey-specific research from which future utility territory-specific targets can be established.

Response: Staff appreciates these comments and has adjusted the recommendation so that performance is reported for all program years and penalties and incentives will not be applied until PY5. Staff has continued to recommend targets for each year, except PY1, in order to encourage the utilities to ramp-up their program performance to achievable goals.

Comment: JCP&L stated that penalties should be discretionary, not mandatory, as many factors impacting performance are beyond the utilities' control, with the load impact of the current pandemic being an illustration of this. Further, JCP&L argued that the penalty framework should embed discretionary authority for the Board or Staff to waive penalties and to determine when to assess penalties or adjust targets based on factors outside of the company's control.

Response: Staff notes that the CEA calls on the Board to establish an accounting mechanism for utilities to receive incentives or penalties based on achievement of performance targets established in the QPIs. That said, in consideration of the initial implementation of these EE and PDR programs, Staff recommends that [awards of incentives and assessments of penalties not begin until after the conclusion of PY5 and that these be based on year 5 performance.](#) Staff also recommends that the Board retain flexibility in levying penalties due to circumstances outside of utility control, such as COVID-19.

Comment: Britton Built noted that if utilities fail to meet the goals, not only will they face a penalty, but contractors will also face a penalty in that they will lack work.

Response: Staff appreciates these comments and that Britton Built highlighted the important issue of the impacts that energy savings performance has on service providers and installation contractors, among others.

Targets

Comment: NJUA expressed concern regarding utilities meeting their targets due to the current pandemic.

Response: Staff understands the concern and has therefore recommended the elimination of the PY1 target in order to allow more flexibility during the transition period, given the current under certainty due to COVID-19, as well as the delay of penalties and incentives until PY5.

Comment: Gabel Associates asserted that the EE Potential Study was flawed in its assumptions, methodology, and scope and therefore argued that the study did not provide reasonably achievable targets for utilities. NJUA shared some of Gabel Associates' concerns about the EE Potential Study and described the targets as aggressive. NJUA also recognized that the targets for PY4 and PY5 are preliminary but asserted that it is not appropriate to

prejudge that the utilities can reasonably achieve energy savings at those levels when only a handful of states in the country have historically achieved such savings levels. NJUA recommended that the first year targets begin with targets that are consistent with current performance and then gradually ramp up toward the CEA targets rather than the EE Potential Study's fifth year targets. JCP&L added that the currently proposed targets are higher than others states' targets, and ACE asserted that energy savings goals should not be greater than 2% by PY5.

Response: Staff appreciates these comments but believes that the targets are ambitious yet achievable. The EE Potential Study, which was based on the best information available and included modeling specific to New Jersey, demonstrated that the targets can be reasonably achieved throughout the state. Furthermore, Staff recognizes that ambitious goals in EE are needed in order to support the State's goal of 100% clean energy by 2050. Finally, the PY4 and PY5 targets will be revisited during the triennial review and will be established following a subsequent EE Potential Study, which will further establish achievable targets.

Comment: JCP&L asserted that the annual savings requirements should not be implemented until five years after the utilities have implemented their programs. Similarly, ACE argued that utilities should be allowed to set their own energy savings targets en route to a 2% goal in PY5. ACE also recommended that, if the Board does set interim savings targets, they should be: 0.2% in PY1, 0.45% in PY2, 0.75% in PY3, 1.25% in PY4, and 2% in PY5. Gabel Associates similarly argued that the utilities should propose ramp rates.

Response: Staff appreciates the concern and has recommended the delay of incentives and penalties to allow the utilities some flexibility in meeting the targets for the first few years, but believes it is important to suggest ramp rates, through targets and QPIs, to assist utilities in meeting the PY5 targets, which will have penalties and incentives associated with them. In recognition of the differing starting points for utilities as well as expected time needed for transition from the State to the utilities, Staff also recommends eliminating the first year targets.

Comment: ACE, JCP&L, PSE&G, SJI, and Gabel Associates argued that the targets and compliance related to targets should be set at the gross level.

Response: Staff thanks the commenters for the comments. However, Staff notes that the CEA specifically states, "A public utility may apply all energy savings attributable to programs available to its customers . . ." By definition, limiting savings claims to only those attributable to some demand side management initiatives would require adjustments to net out any savings that would otherwise have occurred in the absence of the initiative. Further, to ignore adjustments to gross savings to reflect only the attributable savings creates inappropriate incentives for the utilities, as it can simply encourage poor program design and delivery strategies if the actual impact of the programs are not measured, as a program administrator can simply design programs that count all naturally occurring efficiency.

Comment: ACEEE and Rate Counsel recommended that Staff provide additional clarity regarding the justification and methods for the proposed breakdown of the NJCEP targets versus utility targets and establish a methodology going forward. Similarly, JCP&L and Gabel Associates argued that the allocation of targets between the utilities' programs and the NJCEP programs should be different. JCP&L argued that the targets for NJCEP-administered programs are significantly less than what was identified in the EE Potential Study and inappropriately

cause higher and unsupported targets for the utilities. Gabel Associates noted that the Full Proposal did not appropriately account for savings from codes and standards, while JCP&L stated that the NJCEP savings from codes and standards should be higher.

Response: Staff appreciates these comments and anticipates continuing to work with all interested parties through the EM&V and Triennial Review process in order to better understand the energy savings from each sector. At this point, the energy savings targets are based on modeling of expected energy savings from EE programs administered by utilities and the State. For example, the State's annual energy savings targets currently include the potential savings associated with codes and standards.

Comment: Rate Counsel supported reviewing utility performance exclusively based on savings associated with the programs that the utilities are involved in administering, as proposed by Staff. To this end, they supported the separation of goals into NJCEP targets versus utility targets.

Response: Staff appreciates these comments and is glad that Rate Counsel agrees.

Comment: Salvation of Social Justice commented that the energy use reduction targets should be higher and that utilities should exceed what the plan requires.

Response: Staff appreciates these comments and highlights that the targets recommended by Staff are above the statutory minimums targets noted in the CEA, but also are based on what is reasonably achievable, according to the EE Potential Study.

Comment: Gabel Associates suggested measuring target achievement based on verified savings (based upon approved protocols), rather than on evaluated savings and argued that achievement should be based on verified savings (should not be retroactively adjusted).

Response: Staff wishes to clarify that the Full Proposal proposed that savings be based on approved protocols that are evaluated to ensure that measures claimed to be installed were actually installed, but not that the savings or the protocols be retroactively adjusted except to verify installation or in cases of improper reporting.

Comment: Gabel Associates suggested that the energy savings goals should be set based upon the 2% and 0.75% goals established in the CEA until the next potential study is conducted. PSE&G similarly recommended that the targets established in the CEA be established as the annual targets in PY5. SJI commented that the targets are unrealistic, unclear, and above the statutory language in the CEA; they argued that the utilities should set their own targets. Similarly, SJI stated that the ramp rates in the initial years are too aggressive. RECO also commented that there is a conflict because the CEA states that the targets should be reasonably achievable but the Full Proposal does not adequately justify how the targets are reasonable; RECO further states that there is no evidence that the targets proposed can be achieved based on other states' experiences and based on the ramp period proposed.

Response: Staff appreciates these comments but notes that the CEA references the 2% and 0.75% as minimum targets for annual energy use reductions by PY5, but further detailed that the Board should establish targets based on a market potential study, which would evaluate reasonably achievable energy use reductions in New Jersey. Staff further points to responses

above related to the ramp rates, the recommendation for penalties and incentives to start PY5, and a reevaluation at the triennial review which could adjust rates and targets.

Comment: Rate Counsel commented in support of the targets and noted that they are reasonable.

Response: Staff appreciates this comment.

Comment: Gabel Associates commented that establishing the targets based on the rolling three-year average of the prior three years' energy use is unworkable because it sets up a moving target. Gabel Associates recommended that the targets should be set ahead using the three years prior to program filings.

Response: It is not Staff's intention to set a moving target. First, Staff's recommendation is that, to determine whether a utility has achieved the energy use reductions targets, the average energy usage be calculated based on the average of retail sales for the most recent three years relative to the PY for which the target is applicable. For example, PY5 compliance would be evaluated based on the utility's performance related to the PY5 energy use reduction target (expressed as a percentage) based on the average of retail sales in PY2, PY3, and PY4.

Second, Staff's recommendation is that, in calculating and filing QPIs, the utilities should use a consistent methodology based on the formulas and other guidance provided by Staff, including "Utility Program Annual Energy Savings Targets" set forth in the Board Order. For the purposes of calculating QPIs, the utilities should submit forecasts related to retail sales in each of the applicable years that comprises the three-year average. Actual retail sales will be utilized for the purposes of calculating actual performance and applying incentives or penalties.

Comment: RECO commented that the targets recommended do not conform with the CEA. Specifically, RECO argued that the CEA does not give BPU the authority to change targets each year based on the most recent three years of data. RECO believes that the CEA only authorizes the use of the prior three-year average prior to the commencement of the entire NJBPU EE program, and then bases energy reduction on those three years to establish the energy reduction at the end of the fifth year of the EE programs.

Response: Staff appreciates RECO's comments and recommendations in this regarding and has considered them closely, in conjunction with the CEA. Staff believes that the CEA supports Staff recommendations regarding the targets and the three year average.

COST RECOVERY

Amortization Period

Comments: Multiple organizations and individuals disagreed with Staff's proposed seven-year amortization period, stating that a seven-year time frame may result in higher bill impacts for

customers.³² These organizations and individuals recommended a timeframe that would better match the weighted average useful life of the installed EE measures (ranging from 10 to 15 years) based on each utility's specific territory and programs.

Rate Counsel expressed support for the seven-year amortization period, stating that a seven-year period will reduce the potential for rate shock associated with EE transition programs and spread program costs over a period of time to better match program costs with program benefits. Rate Counsel also noted that, while longer amortization periods have the benefit of easing rate impacts, they can also unnecessarily increase the total earnings associated with EE investments that are collected by utilities in retail rates (i.e., longer financing periods often entailing greater levels of financing support).

Response: Staff acknowledges that, generally speaking, shorter amortization periods may result in higher customer bill impacts and modest shareholder earnings, while longer amortization periods may result in lower customer bill impacts and greater shareholder earnings. For the next generation of EE and PDR programs, Staff has adjusted its recommendation to propose a 10-year amortization period for program investments. Staff believes that this amortization period will align more closely to the weighted average useful life of the measures and will provide benefits to both ratepayers and utilities. Staff expects that ratepayers will not be overly burdened with prolonged payments, even after the conclusion of a program, and that utilities' earnings will be appropriately limited. Lastly, a shorter amortization period better aligns program costs with program benefits and may ease future bill increases from multiple new program filings. Please refer to the Cost Recovery section of Staff Recommendations in the Board Order for additional details.

Rate Caps

Comments: Rate Counsel acknowledged that the Full Proposal does not include a program investment or rate cap but that rate impacts will be closely monitored and that a cap on rates or customer bills may be put in place two years after approval of the EE transition programs. Rate Counsel stated that this is a generous provision that reduces risk and, once again, underscored the need for a 100 ROE basis point adjustment recommended by the Full Proposal. PSE&G expressed objection to implementing rate caps on distribution rates or a percentage of a customer's total bill in association with EE investments. NJLEUC agreed with Staff's proposal to closely monitor rate impacts associated with EE and conservation investments and suggested that Staff should avoid the artificial two year deadline for potential imposition of caps. NJLEUC recommended that the Board react quickly to large rate increases or spikes that have the potential to harm struggling ratepayers across all customer classes, with the cap being

³² Such organizations and individuals included Adrianna Piserchia, Doodle's Desserts; April Sette, New Jersey Buzz; Axel Miranda, Axel Miranda & Associates, LLC; AABE; Association Business Solutions; Ceres; Darius Jordan, McKinzy Consultant Services; Derek W. McNeil, Siebert Williams Shank & Co.; Edison Electric Institute; EEANJ; Elizabeth Le Vaca, elvCommunications, LLC; ETG, Gabel Associates; Geoffrey Borshof, The Willow House, LLC; Gerald O'Donnell, GraySabre LLC; Hon. Carmelo Garcia; Karen Wilkinson, Emerald Management Group, Inc.; Lauren Johnson; Laurie Ruffenach; Lime; MaGrann Associates; Maryanne Ott; Matthew Anderson; New Jersey Association of Hearing Health; New Jersey Black Issues Convention; New Jersey Coalition of Latino Pastors and Ministers; New Jersey Energy Coalition; NJNG; NJUA; New Jersey Utility Shareholders Association; Nexant; PSE&G; RECO; Robert Fell; SEK Enterprises (Shawn Kuehn); Signify; SJI; TwinLogixx, LLC (Brian Sprinitis); Uplight; the Urban League of Essex County; and Wayne DeFeo, DeFeo Associates

established as a percentage of a utility's distribution rates rather than a percentage of a customer's total bill.

Response: In order to encourage reaching EE goals, Staff acknowledges the importance of not instituting an initial rate cap during the first few years of the programs commencement. Rate impacts will be closely monitored during the annual true up filings, and a cap on either rates or on customer bill impacts may be instituted during the first triennial review. Please refer to the Cost Recovery section of Staff Recommendations in the Board Order for additional details.

Return on Equity

Comments: Numerous organizations disagreed with the proposal's 100 basis point reduction on return on equity ("ROE") and called for no ROE reduction.³³ These organizations stated that a basis point reduction would negatively impact a utility's economic bottom line, since the reduction would serve as a de facto penalty for all EE investments from the beginning. The basis point reduction would also signal that EE investments are considered less of a priority compared to traditional utility infrastructure investments and would not accurately reflect the risks involved of implementing these programs.

A few organizations supported the ROE basis point reduction and agreed that the basis point adjustment factor accounted for the differences in risk associated with the immediate cost recovery of EE investments that is allowed under the CEA.³⁴ These organizations stated that the availability of accelerated rate recovery for EE investments dramatically decreases the risk of recovery typically associated with utility investments.

Response: Staff acknowledges that the availability of accelerated rate recovery for EE investments may decrease the risk of recovery typically associated with utility EE investments, however, project execution risk may accompany EE investments. Due to recent economic events, Staff believes that implementing the programs in today's environment can present additional challenges for a utility in achieving their EE goals and further notes a desire to set EE on an equal playing field with traditional investments. Recognizing the importance of EE moving forward and a desire to focus utility energy on EE, a critical component of New Jersey's future goals, Staff recommends no ROE modification. Please refer to the Cost Recovery section of Staff Recommendations in the Board Order for additional details.

Lost Revenue Recovery Mechanism

Comments: Multiple organizations and individuals disagreed with Staff's proposed Lost Revenue Adjustment Mechanism ("LRAM") and favored a full decoupling mechanism.³⁵ These

³³ Such organizations include AABE, ACE, BPA, Ceres, Edison Electric Institute, EEANJ, ETG, Gabel Associates, JCP&L, Lime, Nexant, New Jersey Energy Coalition, NJUA, New Jersey Utility Shareholders Association, PSE&G, RECO, Signify, SJG, Uplight

³⁴ Such organizations include AARP, Chemistry Council of New Jersey, NJLEUC, Rate Counsel

³⁵ Such organization and individuals included April Sette, New Jersey Buzz; Axel Miranda, Axel Miranda & Associates, LLC; Ceres; Edison Electric Institute; EEANJ; Elizabeth Le Vaca, elvCommunications, LLC; Gerald J. O'Donnell, GraySabre LLC; JCP&L; Karen Wilkinson, Emerald Management Group, Inc.; Laurie Ruffenach; Lime, Matthew Anderson; Geoffrey Borshof, The Willow House, LLC; New Jersey Association

commenters argued that full decoupling, based on gross savings, better protects customers through countervailing use of surcharges and refunds. Other supporters of full decoupling advocated that it advances EE policies, deters utilities from being purely driven by volumetric sales, and removes the disincentive for utilities to promote EE programs.

Several other stakeholders opposed full decoupling in favor of an LRAM, a CIP, or a limited/partial type decoupling mechanism.³⁶ Arguments made by these stakeholders included that a full decoupling mechanism shifts risk from the utility and onto ratepayers; guarantees a utility's return on investment; and may consequently lead to New Jersey being noncompetitive in retaining businesses and the jobs created in the state. Jeanne Fox argued that New Jersey should not adopt full decoupling without a proven track record from other states demonstrating over a number of years that a full decoupling mechanism is a success for their ratepayers as well as utilities.

Other commenters stated that full decoupling is the appropriate mechanism to achieve the CEA's goals; however, if not possible at this time, they recommended that the Board should implement a CIP or LRAM type mechanism.³⁷ Some commenters said that they would embrace a CIP approach if the Board allowed each utility to propose their own specific terms of the mechanism in the upcoming EE filings.³⁸ ACEEE stated that it would support an interim LRAM for electric utilities with a requirement that utilities be allowed to file for decoupling in their next base rate case.

Supporters of the proposed LRAM commented that the CEA is clear by stating that the utilities should only be compensated for revenues lost as a direct result of their administered EE and PDR programs and not for reductions caused by third parties or other externalities.³⁹ The commenters argued that full decoupling is an inappropriate mechanism to incentivize utilities in reaching the CEA goals. In addition, they stated that gas utilities that currently have a CIP in place should continue utilizing that mechanism and recommended that the CIP be extended to other gas utilities as well as electric utilities, if the mechanism can be modified in a way that includes lost revenues being tied to peak demand (capacity) savings, resulting in the mechanism being mutually beneficial for utilities and ratepayers.

Response: Staff acknowledges that a full decoupling mechanism may remove a utility's disincentive for promoting EE investments and simplify the recovery of all lost revenues. However, Staff notes that full decoupling would shift utility risk onto ratepayers, allowing a utility to recover revenue variances from regulated utility investments (infrastructure, equity, EE, etc.) despite external factors (weather, economic, political, and pandemic) and would require them to pay for all revenue variances in subsequent years. The CEA is clear that "each utility shall file to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of EE and PDR programs required pursuant to this section, including but not limited to recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the program." Staff interprets this to mean that utilities should only be compensated for lost revenues directly attributable to their administered EE and PDR programs. Given strong stakeholder support for the CIP and successful experience with it by

of Hearing Heath; New Jersey Utility Shareholders Association; RECO; Robert Fell; SEK Enterprises (Shawn Kuehn); Sign-On Letter Commenters; TwinLogixx, LLC (Brian Sprinitis); Uplight

³⁶ AARP, Chemistry Council of New Jersey, Jeanne Fox

³⁷ ACE, ACEEE, ETG, Gabel Associates, New Jersey Energy Coalition, NJNG, NJUA, PSE&G, SJG

³⁸ ACE, ETG, Gabel Associates, NJUA, SJG

³⁹ NJLEUC, Rate Counsel

the State and participating utilities, Staff recommends that the utilities continue to be able to utilize or propose participation in the CIP, with modifications to make the CIP applicable to all of the state's gas and electric public utilities. For any utility that does not agree to a modified CIP, Staff recommends using the LRAM. Please refer to the Cost Recovery section of Staff's recommendations in the Board Order for additional details.

Performance Incentives and Penalties Framework

Comments: NJLEUC and Rate Counsel supported the proposed incentive and penalty structure, stating that the structure proposed by Staff is consistent with the plain language and intent of the CEA. They also supported the proposed structure by stating that it was well constructed and includes a symmetrical incentive, penalty, and a fair dead band range. NJLEUC recommended that the penalty for non-compliance should be more stringent and supported the use of a percentage based penalty assessed against a utility's base rate distribution revenue.

PSE&G opposed the proposed non-compliance penalty, and PSE&G and Gabel Associates disagreed with the incentive and penalty structure due to the size of the penalty being disproportionately higher compared to the incentive. PSE&G recommended a simple, scalable, symmetrical, and capped incentive and penalty structure that is recoverable over time. However, PSE&G did not specify what changes should be made to the incentive, penalty, and dead band ranges, but instead suggested a maximum incentive and penalty of 50 basis points scaling linearly from the dead band to 150%/50%.

ACE and NJNG suggested a wider dead band, with ACE recommending a range of 85% to 115% within which utilities would earn their full WACC. ACE also suggested a maximum incentive and penalty of 100 basis points scaling linearly from the dead band to 150%/50%. JCP&L suggested a dead band range from 80% to 100% which would enable utilities to receive their incentive starting at 100%. As previously noted, JCP&L recommended that penalties should be discretionary, not mandatory, as many factors impacting performance are beyond a utility's control, i.e., behavior programs.

RECO objected to the proposed framework and suggested that the threshold of incentives should be 80% of QPIs, with incentives scaling up beyond the 80% baseline. RECO also suggested that the incentives and penalties be calculated in a monetary amount for the following reasons: incentives and penalties could be scaled to utilities based on relative size; it would allow for simple and transparent determination of credits to customers; it would establish more effective incentives than earnings adjustments; and it would avoid the complications inherent in a sliding scale ROE approach.

Response: Staff acknowledges the commenters' concerns that the incentive and penalty aspects of the scale are disproportionate with penalties being larger than incentives. Staff believes the current dead band is appropriate and wide enough to encourage utilities to achieve at least 100% of their QPIs, providing a safety net for circumstances that may be out of a utility's control. Staff appreciates the suggestion of a calculated monetary incentive and penalty but notes that the CEA also allows for incentives and penalties to be awarded through a ROE adjustment. Staff also believes the non-compliance penalty of 0.75% of a utility's base rate distribution revenue is fair and nondiscriminatory. Please refer to the Cost Recovery section of Staff Recommendations in the Board Order for additional details.

Requirement of Utilities to Bid EE into PJM as a Resource

Comments: CPower disagreed with the proposed requirement for utilities to bid EE into PJM, stating that utilities should not be required to offer EE capability into PJM's capacity market as utilities are not suited to managing risk and maximizing the benefits of market participation. CPower also emphasized that there is a high learning curve to enter the PJM Market and that it requires market knowledge and acceptance of risk to maximize the benefits of participation.

JCP&L commented that EE as a resource is unreasonable since actual program participation can vary drastically from what was projected and that utilities face increased risks by participating since utilities would be responsible for either purchasing the resources or paying penalties if unable to deliver the resources. JCP&L recommended that the Board require utilities to develop a plan to "register, nominate, and/or bid" a portion of each year's expected MW reductions and recommended a PJM revenue sharing mechanism whereby customers and utilities would each receive a portion of the revenues from PJM participation for qualified EE and PDR resources.

EEANJ also submitted comments disagreeing with the proposal, stating that utilities should not be required to bid EE into PJM as a resource because there are already successful businesses in New Jersey who operate within the market.

Response: Staff understands the concerns raised by stakeholders on the requirement for utilities to bid EE into PJM but remains committed to ensuring reasonable rates for ratepayers, especially those funding the underlying cost of the EE program. Staff acknowledges that there may be additional risks inherent in PJM market participation; however, Staff believes that any revenues from participation in PJM can offset program costs and mitigate the cost impact on ratepayers. Please refer to the Cost Recovery section of Staff Recommendations in the Board Order for additional details.

FILING REQUIREMENTS

2020 Utility Program Filings

Comments: Multiple stakeholders suggested that the Board set the deadline for 2020 utility filings at a date that would account for the complexity of potential filings and the need for significant utility coordination while still leaving ample time for the Board to review and approve filings. SJI, NJUA, and Gabel Associates specifically suggested that the Board set the deadline at October 31, 2020. Rate Counsel also suggested that the Board adopt a filing schedule that staggers initial utility filings, in the interest of efficiently deploying limited regulatory resources

Response: Staff recognizes that the 2020 utility filings will require more preparation and resources compared to past EE filings, and Staff agrees that the utilities must be given adequate time to prepare complete filings. However, Staff believes that the proposed October 31, 2020 deadline would not provide adequate time for review of the filings because, while it accounts for the 180 day review period, it does not account for the 30 day administrative completeness review period and the time utilities would need to supplement any filing deficiencies. With this additional time taken into account, Staff believes a filing deadline of September 25, 2020 will provide time for a comprehensive regulatory review and full adherence to potential procedural schedules while granting the utilities adequate time to submit complete, collaborative, and innovative filings.

On the question of staggered filings, Staff believes that there is insufficient time for staggered filings and the commencement of programs by July 1, 2021. Staff expects that the coordination among utilities that has occurred throughout the EE stakeholder process will reduce significant variations among utility filings, as well as the complexity of the review of those filings. However, Staff will endeavor to stagger the dates within the procedural schedules for the utility filings in the interest of easing the regulatory burden.

Minimum Filing Requirements (“MFRs”)

Commenters suggested multiple revisions to the minimum filing requirements (“MFRs”), ranging from revisions for clarity to revisions that would remove specific requirements that are no longer applicable.

Comment: Rate Counsel suggested that many of the proposed MFRs could be refined after adoption of all relevant CEA policies and practices, including core program design, rate recovery, benefit-cost analysis, and EM&V practices.

Response: The MFRs as proposed are consistent with Staff’s recommendations to the Board on all relevant CEA policies and practices.

Comment: Rate Counsel suggested that there should be a base set of MFRs for core programs, with additional information required for utility-specific programs and pilot programs that would allow parties to evaluate efficiency of program design and assertions about how additional programs would help utilities to meet CEA targets.

Response: Staff believes that the MFRs as designed should apply to all programs because they are comprehensive. For example, information about all programs will include cost-effectiveness analysis (pursuant to Section V) and assessment of how programs will achieve the targets (pursuant to Section II(b)(v)). As in the current MFRs, utilities may request an exemption for Section V based on a demonstration of why such exemption should be granted (see Section I(e)). Furthermore, Staff suggests that parties may obtain additional information about additional utility programs through discovery process.

Comment: JCP&L suggested revisions to Section I(c) regarding the supporting information that the utility shall file for each proposed program and cost recovery mechanism.

Response: Staff agrees that the revisions would increase the precision of the language and accepts the suggestions.

Comment: JCP&L suggested removing the requirement for an evaluation plan in Section II(a)(i).

Response: Staff is amenable to this suggestion because Section VI describes the evaluation plan in more detail.

Comment: JCP&L suggested changing requirements for net savings to gross savings in Sections II(a)(viii) and VII(a).

Response: Staff continues to recommend that net savings be used to assess compliance, so these provisions are unchanged.

Comment: JCP&L provided suggested language at Section II(a)(x) to include the following program cost categories: capital cost, utility administration, marketing, outside services, incentives, and evaluation.

Response: Staff accepts the suggested revisions, with the exception of the suggestion to remove the category of “inspections and quality control,” as it is unclear what other cost category would include these expenditures. Staff has added the phrase “as applicable” to these categories to provide some flexibility with these cost categories.

Comment: JCP&L suggested that the requirement for an implementation plan for all proposed programs at Section (II)(a)(xi) need not include the phrase “by year.”

Response: Staff accepts this suggested change.

Comment: JCP&L suggested that the marketing plan at Section II(a)(xii) not include a plan for collaborating with Board Staff and the Marketing & Communications Working Group to coordinate on marketing plans.

Response: Staff accepts this suggested change, as the Marketing & Communications Working Group will establish the plan for collaboration among the utilities, Staff, Rate Counsel, and stakeholders.

Comment: NJUA and some utilities expressed support for removing filing requirements on market barriers, job creation, and emissions savings, as proposed by Staff, and recommends moving evaluation of these metrics to the EM&V process.

Response: Staff appreciates the comment and agrees with the approach.

Comment: Some utilities suggested removing the requirements at Sections II(a)(xiv), II(a)(xv), and V(d) for petitions to describe the relationship of proposed programs to existing programs, state energy policy, and energy and environmental statewide planning objective.

Response: Staff agrees with these change, since the EE transition process has removed the need for these comparisons.

Comment: JCP&L suggested that the description of net benefits at Section V(a) need not include the level of detail as currently included in the MFRs.

Response: Staff believes that the net benefits will be included in the benefit-cost analysis described in Section V(b) and therefore recommends deletion of Section V(a).

Comment: NJUA suggested using the Societal Cost Test and dropping references to a New Jersey-specific test in Section V.

Response: Staff's recommendation to the Board is to develop a New Jersey Cost Test. Therefore, Staff has left in references to a New Jersey-specific test.

Comment: JCP&L suggested revisions to Section (VI)(c) regarding the description of the EM&V plan.

Response: Staff agrees with these proposed changes and believes that they improve this requirement.

EVALUATION, MEASUREMENT AND VERIFICATION ("EM&V")

Net to Gross

Comments: Staff received comments from multiple organizations disagreeing with the Full Proposal's use of net savings and instead recommending that gross savings be used for program evaluation and compliance.⁴⁰ The commenters argued that the use of net savings for compliance is contrary to language in the CEA and that net savings would increase the already aggressive savings targets, adding unnecessary complexity, risk, and cost for program administrators. Further, NJUA stated that the proposed timing of the NTG Study makes requiring the use of net savings unreasonable. Rate Counsel submitted comments in support of tracking both net and gross savings, noting how both of these metrics will be important for program evaluation. However, Rate Counsel did comment that the 0.84 NTG ratio proposed in the Full Proposal would require further justification from Staff and that the assumptions regarding free-rider and spillover effects need clarification. Gabel Associates additionally commented that the Board should not establish NTG ratios and that, rather, they should be filed by program administrators since they are the ones exposed to evaluation risk.

Response: Staff thanks the commenters for the recommendation. However, the CEA specifically states, "A public utility may apply all energy savings attributable to programs available to its customers ..." By definition, limiting savings claims to only those attributable to some demand side management initiative would require adjustments to net out any savings that would otherwise have occurred in the absence of the initiative. Further, to ignore adjustments to gross savings to reflect only the attributable savings would create inappropriate incentives for the utilities, as it can simply encourage poor program design and delivery strategies if the actual impact of the programs are not measured, as one can simply design programs that count all naturally occurring efficiency.

Staff therefore continues to recommend the use of net savings for program evaluation and compliance. Staff acknowledges that the NTG ratios require more justification and instead recommends utilizing a NTG ratio of 1:1 instead of the 0.84 ratio proposed in the Full Proposal until a New Jersey-specific NTG study can be conducted. Staff agrees that net and gross savings are valuable metrics and supports tracking both for program evaluation.

⁴⁰ ACE, Gabel Associates, JCP&L, NJUA, PSE&G, RECO, SJI

Cost Test

Comments: In order to meet the CEA's requirement that EE and PDR programs be evaluated by a test that considers both economic and environmental factors, Staff initially proposed developing a Resource Value Test ("RVT") that would serve as New Jersey's primary cost-effectiveness test. Multiple stakeholders commented that the Board should delay development of the RVT because the current timeline does not allow for a sufficient stakeholder process. Further, it was noted at the April 1, 2020 stakeholder meeting that an updated version of the National Standard Practice Manual ("NSPM"), the guidance document for the RVT, is expected to be released this coming summer. Stakeholders expressed that, because of this forthcoming update, it is premature to initiate the NSPM process and that it would be unproductive to pursue the RVT until the updated guidance is released.⁴¹ Commenters suggested that the Societal Cost Test ("SCT") should be used as the primary test for the first program cycle until the RVT is developed at a later date.⁴² JCP&L further commented that the SCT should be used as the primary cost effectiveness test and that the Board should only require the Total Resource Cost Test ("TRC") as a secondary test in the interest of streamlining the evaluation process. Nexant suggested using a modified TRC instead of the SCT. Rate Counsel and AARP submitted comments cautioning against the use of a primary test and arguing that the Board should continue to evaluate programs using the five existing California Standard Practice Manual tests. These commenters argued that the five tests provide an important multi-perspective assessment of cost effectiveness that should be maintained moving forward. AARP and NJLEUC stated in their comments that using the RVT would risk expanding ratepayer expenditures on uneconomic programs by including overly-generous benefits. Further, Rate Counsel suggested that the RVT is unneeded given that the multi-factor QPIs being established have been developed using the RVT's policy driven design principles.

Response: Staff agrees with stakeholder comments that, given the current timeline and forthcoming update in NSPM guidance, developing the RVT for New Jersey would be unreasonable and unproductive at this time. Staff continues to recommend establishment of a primary cost-effectiveness test for the evaluation of EE and PDR programs. Staff recommends that a modified TRC be used as the primary New Jersey Cost Test for the first three-year program cycle, using the TRC as a foundation and modifying it with stakeholder input to include additional non-energy impacts. Staff plans to submit a proposed interim New Jersey Cost Test for stakeholder input in the summer of 2020. Please see the "EM&V: New Jersey Cost Test" section of Staff's recommendations in the Board order for more details.

Accountability and Consistency

Comments: Staff received comments in broad support of consistent standards and methods for EM&V across utility, State, and co-managed programs. PSE&G stated in their comments that accountability standards such as vendor procurement rules and the frequency and transparency of reporting should be the same for all entities. Multiple organizations commented in support of a standard, transparent, and replicable approach for EM&V across the state.⁴³ Specifically, JCP&L recommended that the avoided cost methodology be developed on a statewide basis, using utility-specific inputs where appropriate, by the state evaluator or the EM&V Working

⁴¹ Franklin Neubauer, Core Metrics

⁴² ACE, ACEEE, CERES, Gabel Associates, NJNG, NJUA, PSE&G, Sign-On Letter Commenters

⁴³ EEANJ, NJLEUC, Rate Counsel

Group (“EM&V WG”). Their comments described this as an industry best practice that ensures avoided costs, is designed to align with state policy, is transparent to all parties, and supports a streamlined review process.

Response: Staff agrees with commenters that both utility and State program administrators should be subject to the same accountability standards. Staff also agrees that EM&V methods, such as avoided costs, should be standard across the state as much as possible. Staff recommends that the EM&V WG provide recommendations to the Board on development of a standard, transparent, and replicable approach for EM&V across the state. As part of this standard statewide approach, the State and utilities will be held to the same accountability standards such as the frequency and transparency of reporting and vendor procurement requirements.

Studies/Evaluations

Comments: Staff received comments related to the types of studies and evaluations that should be conducted for the successful evaluation, measurement, and verification of EE and PDR programs. In their comments, PSE&G recommended that impact studies be conducted annually rather than in PY3 as proposed in the Full Proposal. They noted that it is important to undertake impact evaluations in a timely manner, especially if ex-post savings are being used to measure program performance. RECO recommended that the first impact evaluation reports be performed only after enough heating and/or cooling cycle energy data usage is captured to determine how weather factors may have impacted program success. ACE commented that portfolio reviews should be conducted in PY2 so that lessons learned can be incorporated into planning in year 3 for PY4 and PY5. Commenters also suggested that EM&V be used to research and analyze program participation across different demographic groups. NJLEUC stressed the importance of independent evaluations in their comments, stating that all evaluations should be conducted by independent third parties that have no financial or other interests in the programs. Further, they stated that evaluations should never be conducted by entities whose performance is being evaluated. Commenters also suggested that EM&V be used to research and analyze program participation across different demographic groups.⁴⁴ NJEJA recommended the use of evaluation tools and metrics that look specifically at participation among low-income and environmental justice communities. Lastly, Gabel Associates recommended that the Board should refrain from proscribing specific evaluation guidelines and schedules and that these evaluation policy issues should instead be determined by the EM&V WG as it develops the state’s evaluation framework.

Response: Staff appreciates the comments received related to the timing and types of evaluations and studies that should be conducted for a successful EM&V process. Staff agrees that evaluation guidelines such as evaluation requirements, schedules, and the need for additional studies should be developed with input from the EM&V WG and will work to coordinate such recommendations with the EM&V WG. Staff accepts the comments related to independent evaluations and agrees that all evaluations must be independent to ensure accuracy. Staff agrees with commenters on using specific evaluation tools that analyze the participation and impacts of EE programs across different demographic groups and has recommended that the EM&V WG pursue such evaluations

⁴⁴ AARP, New Jersey Environmental Justice Alliance

EM&V Administrative Structure and Working Group

Comments: Commenters generally supported the Full Proposal's proposed EM&V administrative framework and Working Group structure. A number of stakeholders submitted suggestions for possible improvements to the Working Group, such as clarifying the roles of evaluation contractors to avoid conflicts of interest⁴⁵ and expanding its membership to include additional stakeholders. Specifically, these suggested additional stakeholders included program implementation contractors⁴⁶ and an expert representative for low- to moderate-income and environmental justice communities.⁴⁷ ACEEE further commented that provisions for stakeholder input should be strengthened to establish a more structured and scheduled process for receiving stakeholder input.

Response: Staff accepts the comments related to the roles of evaluation contractors as members of the EM&V WG and has made adjustments to clarify those roles. Staff also accepts the suggestion of expanding stakeholder engagement and has added opportunities for representatives from other Working Groups, such as the Equity WG and program implementation contractors to participate in the EM&V WG as needed. Staff acknowledges the importance of receiving stakeholder input related to the State's EM&V policy and will work with the EM&V WG to facilitate the stakeholder process as necessary.

REPORTING REQUIREMENTS

Comments: Ceres called for the Board to ensure transparency in planning and reporting, saying that business and customers need to know how programs are performing and how much they cost. Ceres also stated that transparent reporting will also assist all parties in understanding what has worked well and what can be improved, thereby helping to ensure that New Jersey customers receive effective and cost-efficient services.

Response: Staff thanks Ceres for the comments.

TRIENNIAL REVIEW

Comment: NJNG recommended that the triennial review not start sooner than FY2024.

Response: Staff appreciates the recommendation and will take that into consideration.

Comment: NJLEUC supports continually assessing the incentive/penalty structure and modifying as necessary.

Response: Staff appreciates and agrees with the comment.

Comment: The New Jersey Utility Shareholders Association recommended that the first triennial period be used to establish a performance baseline for the penalty and incentive structure.

⁴⁵ ACEEE

⁴⁶ EEANJ

⁴⁷ Jeanne Fox

Response: Staff believes that the CEA was clear in establishing performance minimums and hopes that the findings and lessons learned during the first triennial period will assist New Jersey in achieving the CEA's vision.

WORKING GROUPS & THE EEAG

Comments: Stakeholders submitted a number of comments regarding the proposed working groups and the role of the Energy Efficiency Advisory Group ("EEAG"). Some stakeholders argued that the EEAG should maintain robust, dedicated funding⁴⁸ and be expanded to include stakeholders from a variety of groups and organizations.⁴⁹ Lime further suggested that most of Staff's proposed working groups serve as subcommittees to the EEAG. Additionally, JCP&L suggested that should the EE products and marketplace programs be consolidated and moved to utility administration and that the associated Products and Recycling Working Group should be eliminated.

Response: Staff notes that the statutory purpose of the EEAG has been satisfied; as such, Staff recommends that the Board charge Staff with developing recommendations for future Advisory Groups or Advisory Councils to assist in future efforts as necessary. In the interim, Staff recommends that the EEAG include a Workforce Development Working Group, Equity Working Group (including Comfort Partners and Multifamily Subcommittees), EM&V Working Group (including an Energy Codes and Standards Subcommittee), and Marketing Working Group.

⁴⁸ VEIC

⁴⁹ Lime, ACEEE

Appendix B to Board Order:

In the Matter of the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs
Docket No. QO19010040

In the Matter of the Clean Energy Act of 2018 – Utility Demographic Analysis
Docket No. QO19060748

In the Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1 – Minimum Filing Requirements
Docket No. QO17091004

MINIMUM FILING REQUIREMENTS FOR PETITIONS UNDER
N.J.S.A. 48:3-98.1

I. General Filing Requirements

- a. The utility shall provide with all filings, information and data pertaining to the specific program proposed, as set forth in applicable sections of N.J.A.C. 14:1-5.11 and N.J.A.C. 14:1-5.12.
- b. All filings shall contain information and financial statements for the proposed program(s) in accordance with the applicable Uniform System of Accounts that is set forth in N.J.A.C. 14:1-5.12. The utility shall provide the accounts and account numbers that will be utilized in booking the revenues, costs, expenses, and assets pertaining to each proposed program so that they can be properly separated and allocated from other regulated and/or other programs.
- c. The utility shall provide supporting explanations, assumptions, calculations, and work papers as necessary for each proposed program and cost recovery mechanism petition filed under N.J.S.A. 48:3-98.1. The utility shall provide electronic copies of such supporting information, with all inputs and formulae intact, where applicable.
- d. The filing shall include testimony supporting the petition, including all proposed programs.
- e. For any proposed program, the utility shall be subject to the requirements in this and all subsequent Sections. If compliance with Section V of these requirements would not be feasible for a particular program or sub-program, the utility may request an exemption but must demonstrate why such exemption should be granted. Examples of historical situations that have qualified for exemption include programs that had an educational rather than equipment-based focus and programs that introduced novel ideas where documentation supporting estimated costs/benefits may not be easily produced.
- f. If the utility is filing for an increase in rates, charges, etc. or for approval of a program that may increase rates/changes to ratepayers in the future, the utility shall include a draft public notice with the petition and proposed publication dates.

II. Program Description

- a. The utility shall provide a detailed description of each proposed program for which the utility seeks approval, including, if applicable:
 - i. Program description/design
 - ii. Target market segment/efficiency – including eligible customers, properties, and measures/services – and eligibility requirements and processes
 - iii. Existing incentives
 - iv. Proposed incentives, including incentive payment processes and timeframes
 - v. Program delivery method
 - vi. Customer financing options
 - vii. Customer access to current and historic energy usage data
 - viii. Contractor requirements and role: The utility shall provide a description of the extent to which the utility intends to utilize employees, contractors, or both to deliver the program(s) and, to the extent applicable, a description of contractor requirements, training, and procurement, including for minority-, women-, and veteran-owned businesses.
 - ix. Estimated program participants, by year
 - x. Projected energy savings and associated calculations for each program year
 - Net annual energy savings
 - Net annual peak demand savings
 - Net lifetime energy savings
 - Net lifetime demand savings
 - Net lifetime energy savings derived from qualifying low-income customers
 - Net lifetime energy savings derived from qualifying small commercial customers
 - xi. Program budget, by year
 - xii. Projected program costs, by year, broken down into the following categories, as applicable: capital cost; utility administration; marketing; outside services; incentives (including rebates and low- or no-interest loans); inspections and quality control; and evaluation. To the extent that the Board directs New Jersey’s Clean Energy Program (“NJCEP”) to report additional categories, the utility shall provide additional categories, as applicable.
 - xiii. Implementation plan for all proposed programs
 - xiv. Marketing plan: The utility shall provide a description of where and how the proposed program(s)/project(s) will be marketed or promoted throughout the demographic segments of the utility’s customer base and how it will be done in coordination with statewide marketing. This shall include an explanation of how the specific service, along with prices, incentives, and energy bill savings for each proposed program/project, will be conveyed to customers, where available and applicable. The marketing plan shall also include a description of any known market barriers that may impact the program(s) and strategies to address known market barriers.
- b. The utility shall provide the following information about the proposed portfolio:
 - i. Quality control standards and remediation policies: The utility shall provide a detailed description of the process(es) for ensuring the quality of the programs and resolving any customer complaints related to the program(s).
 - ii. Workforce development and job training partnerships and pipelines for energy efficiency jobs, including for local, underrepresented, and disadvantaged workers

- iii. Total budget summary, including an annual budget summary
 - iv. Benefit-cost analysis (as defined in Section V)
 - v. EM&V strategies/plan (as defined in Section VI)
 - vi. Assessment of how the programs comprising the portfolio are designed to achieve the targets established pursuant to the utility's quantitative performance indicators (as defined in Section VII)
 - vii. Reporting plan (as defined in Section VIII)
- c. In areas where gas and electric service territories overlap, the utility shall also provide a description of the program structure for coordinated, consistent delivery of programs among utilities and allocation of costs and energy savings among the utilities.

III. Additional Filing Information

- a. The utility shall propose the method for treatment of Renewable Energy Certificates ("RECs"), including solar incentives, or any other renewable energy incentive developed by the Board of Public Utilities ("BPU" or "Board"), including Greenhouse Gas Emissions Portfolio and Energy Efficiency Portfolio Standards including ownership and use of the certificate revenue stream(s).
- b. The utility shall also propose the method for treatment of any air emission credits and offsets, including Regional Greenhouse Gas Initiative carbon dioxide allowances and offsets, including ownership and use of the certificate revenue stream(s). For programs that are anticipated to reduce electricity sales in its service territory, the utility shall quantify the expected associated annual savings in REC, solar incentive, and any other renewable energy incentive costs.

IV. Cost Recovery Mechanism

- a. The utility shall provide appropriate financial data for the proposed program(s), including estimated revenues, expenses, and capitalized investments for each of the first three years of operations and at the beginning and end of each year of the three-year period. The utility shall include pro forma income statements for the proposed program(s) for each of the first three years of operations and actual or estimated balance sheets at the beginning and end of each year of the three-year period.
- b. The utility shall provide detailed spreadsheets of the accounting treatment of the proposed cost recovery, including describing how costs will be amortized, which accounts will be debited or credited each month, and how the costs will flow through the proposed program cost recovery method.
- c. The utility shall provide a detailed explanation, with all supporting documentation, of the recovery mechanism it proposes to utilize for cost recovery of the proposed program(s), including proposed recovery through the Societal Benefits Charge, a separate clause established for these programs, base rate revenue requirements, government funding reimbursement, retail margin, and/or other mechanisms.
- d. The utility's petition for approval, including proposed tariff sheets and other required information, shall be verified as to its accuracy and shall be accompanied by a certification

of service demonstrating that the petition was served on the New Jersey Division of Rate Counsel simultaneous to its submission to the Board.

- e. The utility shall provide a rate impact summary by year for the proposed program(s) and a cumulative rate impact summary by year for all approved and proposed programs showing the impact of individual programs, based upon a revenue requirement analysis that identifies all estimated program costs and revenues for each proposed program on an annual basis. Such rate impacts shall be calculated for each customer class. The utility shall also provide an annual bill impact summary by year for each program, and an annual cumulative bill impact summary by year for all approved and proposed programs showing bill impacts on a typical customer for each class.
- f. The utility shall provide, with supporting documentation, a detailed breakdown of the total costs for the proposed program(s), identified by cost segment (capitalized costs, operating expenses, administrative expenses, etc.). This shall also include a detailed analysis and breakdown and separation of the embedded and incremental costs that will be incurred to provide the services under the proposed program(s), with all supporting documentation. Embedded costs are costs that are provided for in the utility's base rates or through another rate mechanism. Incremental costs are costs associated with or created by the proposed program that are not provided for in base rates or another rate mechanism.
- g. The utility shall provide a detailed revenue requirement analysis that clearly identifies all estimated annual program costs and revenues for the proposed program(s), including effects upon rate base and pro forma income calculations.
- h. The utility shall provide, with supporting documentation: (i) a calculation of its current capital structure, as well as its calculation of the capital structure approved by the Board in its most recent electric and/or gas base rate cases, and (ii) a statement as to its allowed overall rate of return approved by the Board in its most recent electric and/or gas base rate cases.
- i. If the utility is seeking carrying costs for a proposed program, the filing shall include a description of the methodology, capital structure, and capital cost rates used by the utility.
- j. A utility seeking incentives shall provide all supporting justifications and rationales for incentives, along with supporting documentation, assumptions, and calculations. Utilities that have approved rate mechanisms or incentive treatment from previous cases and are not seeking a modification of such treatment through the current filing are not subject to this requirement.

V. Benefit-Cost Analysis

- a. The utility shall conduct a benefit-cost analysis of the programs and portfolio using the New Jersey Cost Test, Participant Cost Test, Program Administrator Cost Test, Ratepayer Impact Measure Test, Total Resource Cost Test, and Societal Cost Test that assesses all program costs and benefits from a societal perspective i.e., that includes the combined financial costs and benefits realized by the utility and the customer. The utility may also provide any additional benefit-cost analysis that it believes appropriate with supporting rationales and documentation.

- b. The utility must demonstrate how the results of the tests in Section V(a) support Board approval of the proposed program(s), including how the programs are designed to achieve a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level when using the New Jersey Cost Test.
- c. Renewable energy programs shall not be subject to a benefit-cost test, but the utility must quantify all direct and indirect benefits resulting from such a proposed program as well as provide the projected costs.
- d. The level of energy and capacity savings utilized in these calculations shall be based upon the most recent Protocols to Measure Resource Savings approved by the Board to measure energy savings for NJCEP. To the extent that a protocol does not exist or an alternative protocol is proposed for a filed program, the utility must submit a measurement methodology for the program or contemplated measure for approval by the Board.
- e. For cost effectiveness calculations, the utility shall also estimate and reflect in the energy and capacity savings any free rider and spillover effects, i.e., savings associated with participating customers who would have implemented energy efficiency or renewable energy measures without N.J.S.A. 48:3-98.1 benefits or incentives.

VI. Evaluation, Measurement, and Verification

- a. The utility shall describe the methodology, processes, and strategies for monitoring and improving program and portfolio performance related to the utility's targets established pursuant to the quantitative performance indicators.

VII. Quantitative Performance Indicators: Targets

- a. The utility shall file quantitative performance indicator ("QPI") values based on the metrics applicable to each program year of the three-year program filing cycle.
- b. The utility shall provide a description of how the proposed portfolio achieves the targets established for each utility pursuant to the following QPIs, as applicable for each program year:
 - i. Net annual energy savings
 - ii. Net annual peak demand savings
 - iii. Net lifetime energy savings
 - iv. Net lifetime demand savings
 - v. Net present value of net benefits as determined by the Utility Cost Test
 - vi. Net lifetime energy savings derived from qualifying low-income customers
 - vii. Net lifetime energy savings derived from qualifying small commercial customers

VIII. Reporting Plan: The utility shall provide a plan to comply with the following reporting requirements:

- a. Quarterly progress reports: No later than 60 days following the end of each quarter, the utility shall submit a user-friendly, public report, with accompanying spreadsheet(s), that includes an overview of program performance, a narrative about customer participation and

incentives paid, and results on the following program-level parameters compared to program projections and goals:

- i. Energy savings: gross and net savings
 - ii. Number of program participants: total, low-income, moderate-income, and small commercial
 - iii. Program expenditures
- b. Annual progress reports: No later than 75 days following the end of each program year, the utility shall submit a user-friendly, public report, with accompanying spreadsheet(s), that includes the same program-level data and accompanying progress/performance narratives as those that are included in the quarterly reports. The annual report will show overall progress and performance of programs that are seasonal or cyclical in nature. In addition, the annual report shall include the utility program administrator's initial and final benefit-cost test results for the programs and portfolio (as defined in Section V), assessment of the portfolio's compliance with the targets established pursuant to the QPIs (as defined in Section VII), and any proposed changes or additions for the next year or cycle.
- c. Triennial reports:
 - i. Progress reports: No later than 90 days following the end of the third program year, the utility shall submit a public report that takes the place of the annual report for that year. This report will be identical to the annual report but will also review the portfolio's data and assess the portfolio's success over the three-year program cycle.
 - ii. Evaluation studies: No later than 365 days following the end of the third program year, the utility shall submit the process and impact evaluations pursuant to requirements issued by the Board.