



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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**MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF PUBLIC UTILITIES**

A regular Board meeting of the Board of Public Utilities was held on March 6, 2023, via online @ [https://www.youtube.com/watch?v=kcVJZf\\_H2Xw](https://www.youtube.com/watch?v=kcVJZf_H2Xw)

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

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

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

Joseph L. Fiordaliso, President  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Robert M. Gordon, Commissioner  
Zenon Christodoulou, Commissioner

President Fiordaliso presided at the meeting and Carmen D. Diaz, Acting Secretary of the Board, carried out the duties of the Secretary.

It was also announced that the next regular Board Meeting will be held on March 22, 2023 at 10:00 a.m. via livestream on YouTube.

## CONSENT AGENDA

### I. AUDITS

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

EE21050842L                      Aegean Energy Advisors, LLC                      R – EA

EE21010080L                      SourceOne, Inc. (DE)                      R – EA/PA/EC  
GE21010081L

**BACKGROUND:** The Board must register all energy agents, private aggregators, and energy consultants, and the Board must license all third party electric power suppliers and natural gas suppliers. On May 10, 2019, P.L. 2019, c. 100-101 was signed into law providing that third party electric power and natural gas supplier licenses issued by the Board may be renewed without expiring if certain conditions are met. An electric power supplier and/or natural gas supplier license shall not expire so long as the licensee pays to the Board a license renewal fee accompanied by an annual information update on a form prescribed by the Board. The renewal fee and annual information update form must be submitted within 30 days prior to the anniversary date of the last approved licensing application. P.L. 2019, c. 100-101 became operative 60 days following the date of enactment. As such, any third party suppliers (TPSs) with a license expiring prior to July 9, 2019 were still required to submit the previous renewal application form.

Any TPS renewal application that was filed prior to July 9, 2019 has been, and will continue to be, processed by Board Staff (Staff) for approval or denial in accordance with N.J.A.C. 14:4-5.7. The anniversary date for companies with a pending application will be the date that the renewal application receives Board approval. At its regular agenda meeting of August 18, 2021, the Board approved the final adoption of proposed amendments to N.J.A.C. 14:4 et seq., concerning energy competition and specifically to subchapter 5, N.J.A.C. 14:4-5 et seq., Energy Licensing and Registration.

In accordance with the rule amendments, an energy agent, private aggregator, or energy consultant registration shall not expire so long as a registration renewal fee accompanied by an annual information update form is submitted to the Board within 30 days prior to the registrant's annual anniversary date. Any registration renewal application that was filed prior to the effective date of the licensing and registration rule amendments, September 20, 2021, has been, and will continue to, be processed by Staff for approval or denial in accordance with N.J.A.C. 14:4-5.9. The anniversary date for companies with a pending application will be the date that the renewal application receives Board approval. Annually thereafter, licensed electric power suppliers and natural gas suppliers, as well as energy agents, private aggregators, and energy consultants, are required to timely file annual information update forms and renewal fees for their licenses and registrations in order to continue to do business in New Jersey.

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

- Aegean Energy Advisors, LLC
- SourceOne, Inc. (DE)

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

## II. ENERGY

### A. Docket No. ER23020091 – In the Matter of the Petition of Atlantic City Electric Company for Approval of Amendments to its Tariff to Provide for an Increase in Rates and Charges for Electric Service Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, and for Other Appropriate Relief (2/2023).

**BACKGROUND:** On February 15, 2023, Atlantic City Electric Company (ACE or Company) filed a petition with the Board seeking approval to increase in its current base rates for electric service of approximately \$104.8 million, excluding Sales and Use Tax (SUT), to be effective for electric service provided on or after March 17, 2023.

According to the Petition, the Company's electric distribution rates set forth in its present tariff are inadequate to recover its operating expenses, taxes, and fixed charges; provide insufficient operating revenues to reflect increased investment in its rate base; and are inadequate for ACE to maintain financial viability. Further, ACE asserted that its present rates do not provide a fair opportunity to earn a reasonable rate of return on the Company's property used to provide utility service.

ACE requested:

- 1) A return on equity of 10.50%;
- 2) Board recognition of certain post-test-year costs and investments so the Company and its investors may be compensated for investments made to serve customers;
- 3) That the Board conduct a prudence review of its PowerAhead Program and find that its recovery of certain PowerAhead costs through the provisional cost recovery mechanism is final and no longer subject to refund;
- 4) Board authority to recover the costs of certain capital investments and Operation and Maintenance expenses incurred during the test year period through June 30, 2023 related to its Smart Energy Network costs;
- 5) Board authority to recover the regulatory asset balance as of June 30, 2023 for costs associated with its EVsmart initiative to be amortized over three years with the unamortized balance included in rate base;
- 6) Board authority to make certain tariff changes, including the addition of two new light emitting diode street lighting options and a new "Electric Vehicle Equivalent Residential Rate" tariff offering; and
- 7) Board authority to refund to customers a gross receipts tax reserve liability via a one-time credit of \$994,337.00, not including SUT. Because the proposed revisions, if approved, will increase existing rates and change or alter existing classifications in the Company's tariff.

Because the proposed revisions, if approved, will increase existing rates and change or alter existing classifications in the Company's tariff, Staff recommended that the Board issue an order suspending the proposed rate increase until July 15, 2023, pending further action on this matter. Staff further recommended that this matter be transmitted to the OAL for hearing as a contested case.

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

### **III. CABLE TELEVISION**

There were no items in this category.

### **IV. TELECOMMUNICATIONS**

There were no items in this category.

### **V. WATER**

There were no items in this category.

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

#### **A. Docket No. GS22120742K – In the Matter of the Alleged Violations by Scenic View Landscaping of the Underground Facility Protection Act, N.J.S.A. 48:2-73 to 91.**

**BACKGROUND:** This matter involved a Final Order of Penalty of Assessment (FOPA) resulting from alleged violations of the Underground Facility Protection Act (Act). This item does not contain violations involving catastrophic situations, death or major property damage.

Following reports of a failure to obtain a valid mark-out prior to commencing excavation or demolition activities, Staff investigated the incident, contacted Scenic View Landscaping (Respondent), and informed them of the date and location of the alleged violations.

Staff's investigation included reviewing electronic damage reports, submitted by New Jersey Natural Gas Company (NJNG). These reports demonstrated that the Respondent: 1) was the excavator; 2) did not request a markout prior to commencing construction; and 3) damaged an underground facility operated by NJNG at 63 River Drive, Marlboro, New Jersey on November 11, 2021.

In an attempt to resolve this matter, the Respondent was provided Notices of Probable Violation (NOPV) containing an Offer of Settlement, and an Answering Certification deadline. The NOPV was sent by regular and certified mail in accordance with the Uniform Administrative Procedure Rules. The Respondent failed to submit the Answering Certification. According to United States Postal Service tracking, the respondent received the NOPV on December 20, 2021. A second NOPV was mailed to the respondent on July

26, 2022. The Respondent received this notice on August 2, 2022 and signed the certified mail receipt. The regular mail was not returned as undeliverable. Respondent must file an Answering Certification within 21 days of receiving the NOPV. More than 21 days has elapsed since the Respondent received the certified mail. To date, the Respondent has not filed the Answering Certification with the Board or with Staff.

If the alleged violator fails to submit the Answering Certification within the deadline, or fails to attend a hearing or conference as required under this subchapter, the alleged violator shall be deemed in default.” By non-acceptance of the various Offers of Settlement and the timely payment thereof, the excavator or operator has waived any rights to a hearing.

Staff recommended that the Board approve the FOPA. Staff further recommended that if the Respondent fails to make the required payment by March 23, 2023, that the Board direct Staff to docket this matter against the Respondent as a Judgment with the New Jersey Superior Court or that the unpaid debt be transferred to the Department of Treasury for the issuance of a Certificate of Debt.

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

**VII. CUSTOMER ASSISTANCE**

There were no items in this category.

**VIII. CLEAN ENERGY**

There were no items in this category.

**IX. MISCELLANEOUS**

**A. Approval of the May 18, 2022 Agenda Minutes.**

**BACKGROUND:** Staff presented the minutes of the Board meeting of May 18, 2022 and recommended they be accepted.

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

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

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

## AGENDA

### 1. AUDITS

There were no items in this category.

### 2. ENERGY

#### A. Docket No. ER23010001 – In the Matter of the Board of Public Utilities – Federal Energy Regulatory Commission (FERC) Items for 2023 – FERC Docket No. CP21-94-000.

Ian Oxenham, Esq., Legal Specialist, Office of the Chief Counsel, presented this matter.

**BACKGROUND AND DISCUSSION:** On February 10, 2023, Board, and the New Jersey Division of Rate Counsel (Rate Counsel) jointly filed a motion for clarification at the Federal Energy Regulatory Commission (FERC) seeking to correct several misstatements of fact made by FERC in its January 11, 2023 order granting Transcontinental Gas Pipe Line Company, LLC (Transco) a certificate of public convenience and necessity for the Regional Energy Access Expansion (REAE) project. The REAE project is a combination of greenfield pipelines, compressor stations, and upgrades to existing facilities and is primarily designed to transport natural gas from Marcellus Shale production wells in Pennsylvania to gas distribution companies (GDCs) in New Jersey. Staff estimates that the REAE project will cost New Jersey ratepayers approximately \$86 million per year and significantly increase New Jersey greenhouse gas emissions.

Staff was particularly concerned that certain misstatements FERC made in its Order regarding both the LEI Report and New Jersey policies could potentially be misinterpreted as FERC overriding the Board's own factual findings or undermining any future prudence review the Board may perform. Staff's motion for clarification therefore requested that FERC correct and/or clarify certain statements regarding the LEI Report's findings and New Jersey policies, as well as explicitly state that FERC recognizes that nothing in its Order interferes with the Board's authority to conduct a prudence review of actions taken by New Jersey GDCs. Staff refrained from taking an express position on the REAE project itself, though the motion did note that the LEI Report counsels skepticism of the claimed need for the REAE project.

Staff recommended that the Board ratify the Motion for Clarification that Staff and Rate Counsel jointly filed with FERC on February 10, 2023.

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

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

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

**B. Docket No. GR22060365 – In the Matter of the Petition of South Jersey Gas Company for Approval to Revise the Rider “H” Rate Associated with the Tax Cuts and Jobs Act of 2017.**

**BACKGROUND AND DISCUSSION:** On June 1, 2022, South Jersey Gas Company (SJG or Company) filed a petition with the Board seeking approval to revise its Rider H rate (True Up Petition).

The Company sought approval to implement a proposed per therm Rider H credit rate of \$0.018885 for the period October 1, 2022 through September 30, 2023. This proposed credit rate reflects a per therm decrease of \$0.004416 per therm from the current per therm Rider “H” credit rate of \$0.023301. The Petition provided actual information through April 30, 2022, and projected information through September 30, 2023.

Following further review and discussions, SJG, the New Jersey Division of Rate Counsel, and Board Staff (Staff) (collectively, Parties) executed a stipulation of settlement (Stipulation).

Staff recommended the Board issue an Order adopting the Stipulation of the Parties. Staff further recommended the Board direct SJG to file tariffs consistent with the Order by April 1, 2023.

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

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

**C. Docket No. GR22070467 – In the Matter of the Petition of South Jersey Gas Company to Revise the Levels of its Societal Benefits Clause (SBC) Charges and its Transportation Initiation Clause (TIC) Charge.**

**BACKGROUND AND DISCUSSION:** On July 29, 2022, South Jersey Gas Company (SJG or Company) filed a petition with the Board requesting approval to revise the rates of its Transportation Initiation Clause (TIC) and two components of its Societal Benefits Charge (SBC): the Remediation Adjustment Clause (RAC) and the Clean Energy Program (CLEP) Clause (Petition).

SJG sought to increase the overall annual revenue level of its SBC and TIC charges by \$1.9 million for the 2022-2023 clause year. The Company sought: 1) to increase its per-therm RAC rate from \$0.047912 to \$0.054031, an increase in annual revenues of \$3.3 million; 2) to decrease its per-therm CLEP rate from \$0.032899 to \$0.030063, a decrease in annual revenues of \$1.5 million; and 3) to increase its per-therm TIC rate from (\$0.000055) to \$0.000263, an increase in annual revenues of \$0.1 million.

Following a review of discovery, the Company, the New Jersey Division of Rate Counsel, and Board Staff executed a stipulation of settlement that would allow SJG to implement a revised per therm TIC rate of \$0.000244, a CLEP rate of \$0.031280 and a RAC rate at \$0.054031.

Staff recommended that the Board approve the tariff and rate changes proposed by SJG, and direct the Company to file revised tariffs prior to March 31, 2023 for service rendered on and after April 1, 2023. Staff also recommended the Board deny JCP&L's request to file revised rates via compliance filings.

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

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

**D. Docket No. EO22100629 – In the Matter of the Petition of Butler Electric for Approval of a Zero Emission Certificate Recovery Charge.**

**BACKGROUND AND DISCUSSION:** On May 23, 2018, Governor Phil Murphy signed into law L. 2018, c. 16 (N.J.S.A. 48:3-87.3 to -87.7) (Act). The Act required the Board to implement a Zero Emission Certificate (ZEC) program within specified timelines. The Act allows the Board to authorize certain eligible nuclear energy generators to receive ZECs, which, in turn, will be purchased by New Jersey's electric distribution companies (EDCs). The Act also requires the Board to order the full recovery of EDCs' costs associated with the purchased ZECs via a non-bypassable charge imposed on each EDC's retail distribution customers.

The Act directs each EDC to file with the Board a tariff to recover a ZEC charge of \$0.004 per kilowatt-hour (kWh) from its retail distribution customers (ZEC Charge). The ZEC Charge constitutes the emissions avoidance benefits associated with the continued operation of a selected nuclear power plant. The ZEC Charge is one component of the Zero Emissions Certificate Recovery Charge (ZECRC), by which the Act directs the EDCs to return excess monies in each EDC's separate, interest-bearing account to its retail distribution customers at the end of each energy year. The second component of the ZECRC is the Return of Excess Collections Credit Rate (RECCR).

Within 60 days of the filing of each EDC's tariff, and after notice, opportunity for comment, and a public hearing, if consistent with the provisions of the Act, the Act requires the Board to approve the appropriate tariffs. The Act also directs the EDCs to return excess monies in each EDC's separate, interest-bearing account to its retail distribution customers at the end of each energy year.

On December 16, 2020, the Board approved Butler Electric (Butler or Company) request to revise its Return of Excess Collection Credit Rate (RECCR) to (\$0.000149) per kWh, for an overall ZECRC rate of \$0.003851 per kWh, excluding New Jersey Sales and Use Tax (SUT). On October 15, 2021, the Company filed a petition to increase its RECCR to (\$0.000083) per kWh, not including SUT. By Order dated April 6, 2022, the Board



approved Butler's request to revise its RECCR, resulting in a total ZECRC rate of \$0.003917 per kWh, excluding SUT.

On October 13, 2022, Butler Electric filed a petition to revise its RECCR to a charge in light of its net under-collected ZECRC balance for energy years 2021 and 2022 (Petition). The Company proposed to set its RECCR to \$0.000073, resulting in an overall ZECRC of \$0.004073 before SUT.

On December 15, 2022, the Company, in its response to discovery requests, proposed to set the RECCR to \$0.000069. The revised RECCR would result in an increase in the Company's ZECRC from \$0.003917 per kWh before SUT to \$0.004069 per kWh before SUT.

On February 8, 2023, the New Jersey Division of Rate Counsel (Rate Counsel) filed a letter with the Board recommending that the Board deny Butler's request to charge its residential distribution customers any amount in excess of the \$0.004-per kWh charge rate set in the Act. Rate Counsel also noted that Butler did not file with the Board to adjust its rate when its ZECRC excess collection balance approached zero, as it stated it would in its October 15, 2021 petition. Rate Counsel further noted that it is unaware of any new information in the record since the April 2022 Order which would justify granting Butler's request to allow this and future ZECRC filings to be handled via a 30-day-notice compliance filing.

On February 21, 2023, Butler responded to Rate Counsel's comments, asserting that the \$0.004 per kWh charge established the initial ZEC charge, not the total ZECRC. Further, Butler asserted that the charge of \$0.004 per kWh refers to the amount nuclear plants may recover, not the limit a utility can charge its customers to recover the charges it must pay to the nuclear plants. Additionally, Butler noted that its October 15, 2021 petition served as a notice that its RECCR requirement approached zero as a result of Butler's excess refunds at that time, but its tariff change did not occur due to deviations from the prescribed timeline. Butler also noted that ZEC revenues are based on actual collected revenues and, due to the COVID-19 pandemic, nuclear providers received ZEC payments in excess of the actual collected revenues. In response to Rate Counsel's comment regarding the requested compliance filings, the Company noted that they request a "streamlined" process by which to file tariff updates.

Staff recommended that the Board approve Butler's proposed tariff and rate changes to 0.004069 per kWh, excluding SUT. Staff also recommended that the Board deny the Company's request to file revised rates via compliance filings. Staff further recommended that the Board direct Butler to file revised tariffs prior to March 15, 2023 for service rendered on and after March 15, 2023.

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

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

**Stacy Peterson, Deputy Executive Director**, presented this matter.

**E. Docket No. GO23020099 – In the Matter of the Implementation of Executive Order 317 Requiring the Development of Natural Gas Utility Plans.**

**BACKGROUND AND DISCUSSION:** On February 15, 2023, Governor Philip D. Murphy issued Executive Order 317 (EO 317". EO 317 directs the Board to immediately initiate a proceeding to formally engage with stakeholders concerning development of natural gas utility plans that reduce emissions from the natural gas sector to levels that are consistent with achieving the State's (50%) reduction in greenhouse gas emissions below 2006 levels by 2030, as directed in Executive Order No. 274 (2021). Additionally, EO 317 requires that, within 18 months, the BPU develop recommendations for how the natural gas industry can best meet these goals, considering cost and support for well-paying jobs, including union jobs, necessary to deliver on these goals.

Staff recommended that the Board direct Staff to initiate a stakeholder process to investigate and provide recommendations for how the natural gas industry can best meet the State's reduction in greenhouse gas emissions below 2006 levels by 2030.

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

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

**3. CABLE TELEVISION**

There were no items in this category.

**4. TELECOMMUNICATIONS**

There were no items in this category.

**5. WATER**

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

**A. Docket No. WR22120745 – In the Matter of the Petition of Aqua New Jersey Inc. for Approval to Defer Costs Related to the Replacement of Lead Service Lines and Other Related Approvals.**

**BACKGROUND AND DISCUSSION:** On July 22, 2021, Governor Phil Murphy Signed L 2021 c 183 (LSL Law) into Law. The LSL Law provides that all public water systems should fully inventory all service lines and gradually replace all lead service lines in the

State. The LSL Law further provides that the affected utilities receive approval from the Board in order to recoup the costs associated with replacing customer owned lead service lines.

Aqua New Jersey (Aqua), filed a petition on December 23, 2022, seeking authorizing it to defer the costs associated with replacement of customer owned lead service lines. Aqua's filing stated that it intends to recover the costs included in the regulatory asset through its Distribution System Improvement Charge.

Staff recommended that the Board retain this matter and appoint a designated Commissioner to preside over this matter. Staff further recommended that the Board set a bar date of March 31, 2023 for motions to intervene and/or participate and for motions pro hac vice.

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

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

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

**Docket No. WR18030235 – In the Matter of the Petition of Environmental Disposal Corporation with Calculation of Rates Under the Tax Cuts and Jobs Act of 2017.**

**BACKGROUND AND DISCUSSION:** On March 2, 2018, the Environmental Disposal Corporation (Company) filed a petition describing the impact of the Tax Cuts and Jobs Act of 2017 (Tax Act) on Company and included proposed tariffs reflecting a rate reduction resulting from the Tax Act. The Company also proposed to defer this resulting liability as of January 1, 2018 with interest at its short-term debt rate for the period of January 1, 2018, through March 31, 2018 (stub period).

The Board subsequently adopted the Company's proposed tariffs on an interim basis, effective April 1, 2018, subject to refund pending the outcome of this proceeding.

The Company, the New Jersey Division of Rate Counsel, and Board Staff executed a Stipulation for Final Rates (Stipulation), which resolved all issues related to this matter.

Staff recommended that the Board issue an order approving the Stipulation.

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

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

**6. RELIABILITY AND SECURITY**

There were no items in this category.

**7. CUSTOMER ASSISTANCE**

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

**Julie A. Ford, Director, Division of Customer Assistance,** presented this matter.

**BACKGROUND AND DISCUSSION:** The Board established a Utility Customer Bill of Rights (Bill of Rights or BOR) on February 3, 1986, which set forth in plain language, the protections afforded to utility customers under the Board’s regulations. The Board revisited those protections after Governor Phil Murphy (Governor) issued a series of executive orders and legislation to address the significant economic impact the COVID-19 pandemic has had on the residents of the State of New Jersey.

The Board revised the Bill of Rights on September 14, 2021 to reflect changes made to the Board’s regulations and included additional consumer protections issued by the Governor. The Board then issued a clarifying order on October 6, 2021, which mandates the Utilities to send a notice of customer protections to customers on a monthly basis until 18 months after the termination date of Executive Order 103 (EO103).

The Board has since made three additional revisions to the Bill of Rights wherein it extended or removed various protections to conform to changes in the laws due to the COVID-19 pandemic. The most recent revisions were the April BOR, which, among other things, provided for extended protection from service termination for select customers who applied for utility bill payment assistance by June 15, 2022. Those protections, however, have expired, but are reflected on the April BOR.

The Customer Notice Law remains in full force and effect as EO 103 has not been terminated. The Utilities are required to continue sending notice of customer protection to its customers until 18 months after the termination of EO 103. Additionally, the March 2022 Law, which requires Utilities to provide information regarding bill payment assistance programs in any communication the Utilities have with a customer in connection with an overdue utility bill also remains in effect.

Staff recommended the Board direct the utilities to provide the 2023 BOR to its customers consistent with the Customer Notice Law as follows:

1. Provide all current customers with a copy of the 2023 BOR in its next billing cycle. Current customers who receive a printed version of their bills shall be provided with the 2023 BOR in a printed format on a monthly basis. Current customers who receive their bills electronically shall be provided with the 2023 BOR electronically on a monthly basis. Regardless of which delivery method employed, all Utilities shall, on a monthly basis until 18 months after the termination of EO 103, provide the 2023 BOR to customers in a form and manner that would maximize receipt by the customers;
2. Provide all new customers with a copy of the 2023 BOR upon initiation of service;
3. For a municipality served by a local or public utility where the primary language of 10 percent or more of the population is a language other than English, the 2023 BOR shall be translated into the other language(s). Both the translated and English versions shall be provided to the customer on a monthly basis in a printed format if the customer currently receives bills in a printed format. For electronic billing customers, the monthly email shall include a link to the translated version and English version of the 2023 BOR for those customers.
4. In addition to providing the 2023 BOR to the customer in an appropriate format and language, as appropriate, the 2023 BOR must also be prominently displayed on the Utilities' website, if applicable;
5. The Customer Notice Law applies to all electric, gas, water, sewer, and incumbent local exchange telephone public utilities within the jurisdiction of the Board;
6. The Utilities shall report compliance with the Customer Notice Law by March 29, 2023, detailing the method of distribution to customers and describing all changes made to billing and collections operations in compliance with applicable laws, and provide the Board with a copy of the English version of the 2023 BOR that was sent by the Utilities to the customers; and

For those Utilities which are required to provide a translated version of the 2023 BOR to its customers, a copy of the translated version shall also be included with the requirements set out in number 6 above.

Staff further recommended the Board require the Utilities to provide information regarding the WTP, the Universal Service Fund, the Low Income Home Energy Assistance Program, the Low Income Household Water Assistance Program, and any other utility assistance programs administered by a State agency in any communication the Utilities have with a residential customer with an overdue utility bill pursuant to the March 2022 Law.

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

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

## 8. CLEAN ENERGY

### A. Docket No. QO21101186 – In the Matter of the Competitive Solar Incentive (CSI) Program Pursuant to P.L. 2021, c. 169 – Price Cap Determination.

**Véronique Oomen, Project Manager Renewable Energy, Division of Clean Energy,** presented this matter.

On July 9, 2021, Governor Murphy signed new solar legislation, referred to as the Solar Act of 2021 (Solar Act or the Act), which directs the Board to establish a comprehensive program to provide incentives for the development of at least 3,750 megawatts (MW) of new solar generation by 2026, by establishing a new program for incentivizing solar in New Jersey through the mechanism of Solar Renewable Energy Certificate (SREC)-IIs, representing the value of the environmental attributes produced by the solar electric power generation facility. The Act directs the Board to create a small solar facilities program with administratively set incentive values, and a competitive solicitation process for awarding contracts for grid supply solar facilities and net metered solar facilities greater than five megawatts.

On July 28, 2021, the Board voted unanimously to implement the Successor Solar Incentive Program (SuSI Program). Like the Act itself, the SuSI Program is divided into an administrative “small solar facilities” program, and a competitive procurement. On August 16, 2021, the Board adopted the SuSI program rule proposal, and the rules became effective on February 2, 2022 when published in the New Jersey Register. By order on July 28, 2021, the Board issued the closure of the TI program, effective August 27, 2021.

On August 28, 2021, the Administratively Determined Incentive (ADI) Program opened to new registrations, offering a fixed incentive in the form of SREC-IIs for net metered residential projects, net metered non-residential solar projects of 5 MW or less, and all community solar projects. Additionally, the ADI Program includes an interim program for solar projects located on properly closed sanitary landfill facilities, brownfields, and areas of historic fill that were previously eligible for certification under Subsection (t) of the 2012 Solar Act.

On December 7, 2022, the Board established the Competitive Solar Incentive (CSI) Program by Board Order, as well as approved rules addressing the CSI Program and accompanying solar siting criteria for publication in the New Jersey Register. The CSI Program is open to qualifying grid supply solar installations and non-residential net metered solar installations with a capacity greater than five megawatts (MW), as well as to eligible grid supply solar installations in combination with energy storage. The siting

criteria will apply regardless of whether the solar installation has chosen to compete in the CSI Program for an incentive.

The CSI Program is a competitive procurement that will target an average of 300 MW of new solar projects annually. Projects will compete for four separate market segments, or tranches: basic grid supply; grid supply projects located on the built environment; grid supply projects on contaminated sites and landfills; and net metered non-residential projects greater than 5 MW. Eligible CSI projects will submit a bid for an SREC-II award in their tranche, specified in dollars per MWh of solar electricity production; prequalified projects compete on bid price only. Solar projects may compete in all tranches for which they are eligible but will receive an award only once. Proposed tranches and initial MW targets are:

Tranche 1: Basic Grid Supply 140 MW  
Tranche 2: Grid supply on the built environment 80 MW  
Tranche 3: Grid supply on contaminated sites and landfills 40 MW  
Tranche 4: Net metered projects above 5 MW 40 MW  
TOTAL SOLAR 300 MW  
Tranche 5: Storage paired with grid supply solar 160 MWh

To participate in Tranche 5, a solar project would provide a two-part bid: a solar-only SREC-II price (eligible to compete in tranches 1, 2 or 3) and a storage adder price that will be considered separately in the storage tranche for award of a storage adder. The target for the storage tranche of 160 MWh corresponds to 4-hour storage pairing of 40 MW of solar.

The first solicitation of the CSI Program opened for prequalification on February 1, 2023, and closes to bids on March 31, 2023 at 11:59:59 pm EST. After an award, projects would have 30 days to register with the Board.

In the December 7, 2022 Order, the Board reserved the right to establish confidential, pre-determined price caps for any or all tranches before the close of the first solicitation on March 31, 2023. If the Board determines that an award would breach the price cap, then procurement would cease in the effected tranche or tranches, regardless of whether the megawatt target for that tranche had been met.

Staff recommended that the Board establish tranche-specific caps for the CSI Program solicitation.

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

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

**B. Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, c. 24, the Solar Act of 2012;**

**Docket No. QO19010068 – In the Matter of the New Jersey Solar Transition Pursuant to P.L. 2018, c. 17 – Application for Certification of Solar Facility as Eligible for TRECS Pursuant to Subsection (t) of the Solar Act of 2012; and**

**Docket No. QO21050858 – CEP Renewables Oxford/Textile Mill Solar Farm LLC.**

**Diane Watson, Ph.D., Research Scientist, Division of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** On July 23, 2012, the Solar Act was signed into law. The Solar Act amends certain aspects of the statute governing generation, interconnection, and financing of renewable energy. The Solar Act – specifically, Subsection (t) – provides that:

No more than 180 days after July 23, 2012, the Board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide Solar Renewable Energy Certificates (SRECs) to owners of solar electric power generation facility projects certified by the Board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility. . . . Projects certified under this subsection shall be considered “connected to the distribution system” [and] shall not require such designation by the Board.

The Solar Act defines the terms “brownfield,” “area of historic fill,” and “properly closed sanitary landfill facility.” A “brownfield” is “any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.” “Historic fill” is “generally large volumes of non-indigenous material, no matter what date they were placed on the site, used to raise the topographic elevation of a site. A “properly closed sanitary landfill facility” means “a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection.

In an Order dated January 24, 2013, the Board approved Staff’s proposed process for certifying solar generation projects as being located on brownfields, areas of historic fill, and properly closed sanitary landfill facilities. The certification process for projects seeking approval pursuant to Subsection (t) provides three potential recommendations from Staff to the Board: full certification, conditional certification, or denial of certification. Conditional certification may be granted for projects located on sites which New Jersey Department of Environmental Protection (NJDEP) has determined require further remedial action or, in the case of properly closed sanitary landfill facilities, additional protective measures, and full certification may be granted for projects located on sites for which NJDEP has determined no further remedial or protective action is necessary. The process incorporates the expertise of the NJDEP to confirm a potential project’s land use classification for eligibility and to account for the state of remediation of the project site.



The January 24, 2013 Order states that certification would be limited to those areas delineated by NJDEP. In compliance with this directive, applicants are required to delineate the precise section(s) of the location where the solar facility is proposed to be sited, and NJDEP reviews this material in making its recommendation.

On May 23, 2018, Governor Murphy signed L. 2018, c. 17, codified at N.J.S.A. 48:3-51 to -87 into law (Clean Energy Act or CEA or Act), effective immediately. The CEA effected many changes to the legal and regulatory framework for solar development, including directing the closure of the SREC program by no later than June 2021, reducing the SREC term or “qualification life” to 10 years, and imposing a cap on the cost to ratepayers of certain Class I renewable energy requirements.

The CEA mandated that the Board close the SREC Registration Program (SRP) once it determined that 5.1% of the kilowatt-hours sold in the state had been generated by solar electric power generators connected to the distribution system (5.1% Milestone) or, in the alternative, by no later than June 2021. On December 18, 2018, the Board approved the adoption of rule amendments to close the SREC market to new applications upon attainment of the 5.1% Milestone. The new rules took effect upon publication in the New Jersey Register on January 22, 2019. Pursuant to these rules, the Board determined that the 5.1% Milestone would be reached prior to May 2020 and closed the SRP on April 30, 2020.

On December 6, 2019, the Board established a Transition Incentive (TI) Program to provide a bridge between the legacy SREC program and a Successor Incentive program in an orderly and efficient manner. The TI Program provides eligible projects with TRECs for each megawatt hour of electricity produced. Incentives are tailored to specific project types by the use of factors, which are applied to a base incentive rate to provide a particular project type with the full incentive amount or a set percentage of that amount depending on the costs and anticipated revenue streams for the project type. Projects certified pursuant to Subsection (t) receive a factor of 1.0 and thus the full amount of the base incentive.

On September 10, 2020, the Board adopted the TI program rule proposal, and the rules became effective on October 5, 2020 when published in the New Jersey Register. The rule provides that the transition incentive “shall be available to projects that submitted a complete SREC Registration Program registration or a complete Subsection (t) application after October 29, 2018” (emphasis added) but that have not received a Permission to Operate at the time that the 5.1% Milestone is achieved. The rule also incorporates the eligibility requirements enumerated at N.J.S.A. 48:3-87(t) and the Board’s Implementing Orders, and requires developers seeking eligibility for TRECs to use the same application process developed for SREC eligibility. Moreover, the TI rules require compliance with all rules and regulations of the SRP.

On August 17, 2022, the Board provided the opportunity for extension of the TI deadline to Subsection (t) projects registered in the TI program or with applications pending review with the NJDEP. The Board waived its rules and modified prior orders to allow up to a 12-month extension to all Subsection (t) solar projects with current registrations as well as those that receive conditional certification by the Board in the future, provided these projects can meet specified criteria. In addition, the Board granted the same relief to Subsection (t) applicants with applications pending review at the Board or NJDEP that

received conditional certification. Such applicants thus received an automatic additional six (6) months to the registration expiration date that would otherwise be set in the Board order granting the project's conditional certification.

Projects certified under Subsection (t) are subject to all of the Board's SRP and TI rules; the statutory language exempts such projects from the need for further Board designation as "connected to the distribution system" but does not remove any of the Board's oversight authority. For example, projects seeking TREC eligibility must comply with the TI rules at N.J.A.C. 14:8-10, and applicable Board orders concerning registration with the TI Program. The size and location of the subject project will then be reflected in the public reporting of solar development pipeline data.

On May 27, 2021, Staff received the Oxford Textile Mill Solar Farm LLC application from CEP Renewables. Staff reviewed the application for administrative completeness and forwarded a copy to the NJDEP for its review on June 3, 2021.

At issue is the request by CEP Renewables that its proposed Oxford Textile Mill Solar Farm solar facility, to be located in Oxford Township, Warren County, New Jersey, be certified as eligible for TRECs pursuant to Subsection (t). CEP Renewables filed an application with supporting documentation to enable a NJDEP determination as to whether 104.14 acres of the proposed site is a brownfield. Upon request from the Department that the applicant provide maps showing areas of concern and the extent of the contamination of the site in relation to the proposed solar array, the applicant provided a supplemental letter dated November 12, 2021. On July 8, 2022, the Department again requested additional information from the applicant, this time demonstrating that Lot 4.03 of the property was a commercial/industrial site as per the definition of the Solar Act of 2012. This request has not been fulfilled.

NJDEP supplied an advisory memorandum to Staff on December 28, 2022, on the land use classification and on the remediation status of the proposed site. On the basis of NJDEP's determination, the information certified by CEP Renewables in its application, and the Subsection (t) process approved in the January 24, 2013 Order, Staff recommended that the Board grant partial conditional certification, as explained further below.

The NJDEP provided a comprehensive description of the site background and findings from a review of the application. The Applicant is proposing a 24.0552 MWdc grid supply solar farm at the Oxford Textile, Inc., site in Oxford Township, Warren County. The Applicant proposes to construct the proposed solar electric power generation facility on the brownfield portion of the property, approximately 104.14 acres, as illustrated in the Electrical Site Plan map included in the Application; 73.116 acres lies within Lot 4.02.

The NJDEP provided the statutory definition of "brownfield" and found based on consideration of the site background and the application package that only the proposed acreage for solar development on Block 33 Lot 4.02 constitutes a brownfield as defined by the Solar Act of 2012. The remaining acres on Block 33 Lot 4.03 does not constitute a brownfield as it is a wooded area showing no signs of previous commercial or industrial activity.

The NJDEP advised Board Staff of additional considerations since the solar project is proposed to be located on property that requires remediation. The property owner and the owner/operator of the solar installation must comply with several state laws with respect to construction of the solar facility on the brownfield. Additionally, land use review and permits may be required by the NJDEP. The applicant must contact the NJDEP's Office of Permitting and Project Navigation and the New Jersey Highlands Council to determine which permits may be required.

Based on the information contained in the application and the NJDEP's findings, Staff recommended that the Board conditionally certify only that portion of the property identified by NJDEP as being located on a "brownfield" pursuant to Subsection (t), specifically 73.116 acres at Block 33, Lot 4.02. Staff recommended that the Board deny the conditional certification for the portion of property located on Block 33, Lot 4.03 as it does not meet the Solar Act's definition of a brownfield.

Staff also recommended that the Board authorize Staff to require that the conditions for certification provided by the NJDEP be fully documented as satisfied by the Applicant prior to Staff's issuance of full certification of the project's eligibility for TRECs. In addition, Staff recommended that the Board direct the Applicant to file its TREC registration within 14 days of the date of the Order and explicitly grant conditional certification.

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

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

**C. Docket No. QO20020184 – In the Matter of a Successor Solar Incentive Program Pursuant to P.L. 2021, c. 169.**

**B. Scott Hunter, Manager, Division of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** On July 9, 2021, Governor Murphy signed the Solar Act of 2021 (Solar Act). The Solar Act directed the Board to establish a program to incent the development of at least 3,750 MW of new solar by 2026 through the mechanism of Solar Renewable Energy Certificate (SREC)-IIs, representing the value of the environmental attributes produced by the solar electric power generation facility. The Solar Act directs the Board to create a small solar facilities program with administratively set incentive values, and a solicitation process for awarding contracts for grid supply solar facilities and net metered solar facilities greater than five megawatts.

On July 28, 2021, following an extensive stakeholder process, the Board approved the creation of the Solar Successor Incentive (SuSI) Program, consisting of the Administratively Determined Incentive (ADI) Program and the CSI Program. The ADI Program launched on August 28, 2021, and is open to residential projects, net metered non-residential projects equal to or less than five megawatts, community solar projects and for an interim period, projects previously eligible to seek conditional certification from the Board under the subsection (t) program.

The SuSI Program Order directed Staff to conduct a “one year check-up” on incentive levels after the first twelve months of experience with the new program. The one year program review is intended to provide an opportunity to examine whether the ADI Program is reasonably on track to meet the targets established by the Board or whether adjustments should be made.

The one year review would take into account market response, rate of registrations into the program, total MWs registered into the program, and other factors that are indicative of the overall health of the solar industry.

On November 21, 2022, the Board Secretary’s Office issued Notice of a public stakeholder meeting to be held on Friday December 2 as part of the One Year Review of the ADI Program. In the Notice, Staff sought stakeholder input on a number of questions regarding the market’s adjustment to the SuSI Program from the Transition Incentive (TI) Program and longer-term market prospects. Questions were posed to stakeholders on the ADI Program incentive levels which were set in the July 2021 Order and were anticipated to remain in place until the end of the Program’s first three-year period (May 31, 2024). Comments were due by December 9, 2022.

On December 2, 2022, Staff held a public stakeholder meeting where we described the plan to conduct the One Year Review and received initial stakeholder input. Staff provided a report on program performance by market segment and advised stakeholders that the review of incentive levels will incorporate the market’s response to current incentive levels as well as changes in the market. Cadmus provided an overview of the incentive modeling approach to be used, key financial inputs under review and anticipated adjustments to the SAM models proposed for informing the need for any incentive level changes.

#### Program Performance

By Order dated December 7, 2022, in response to the impending oversubscription of the residential market segment, the Board reallocated capacity among market segments in the ADI Program. The Board reallocated the unsubscribed capacity from the Non-residential market segment (30.19 MW) as well as the Interim Subsection t market segment (69.81 MW) to the residential market segment. In a separate agenda item at the same meeting, the Board approved the Competitive Solar Incentive Program which enabled closure of the Interim Subsection t market segment in ADI.

At the time of the December 7 agenda meeting, the residential market segment in the ADI program was on pace to receive registrations for capacity that exceeded the 150 MW allocated for EY23 prior to its conclusion on May 31, 2023. From June 1 to December 7, 2022, registrations had been submitted to the ADI portal at an average of 4.9 MWdc per week.

As a result of the impending oversubscription in the residential market segment, the Board allocated an additional 100 MWdc of capacity. Basing a capacity allocation on the pace of applications at the current incentive levels would require approximately 250 MWdc. The REC registration processing team have estimated that approximately 28% of the registered projects in the TI program failed to complete the development process. Accounting for project scrub, at current incentive levels the residential market segment would require 180 MWdc of capacity. A modest incentive level decrease should

moderate the pace of applications to a level closer to the 150 MWdc target established by the Board in the July 2021 SuSI Order.

The non-residential market segment during this same time period had 62 MWdc of applications submitted on a weekly pace of 2.3 MWdc. In May 2022, the Board established an allocation for EY23 of 287.8 MWdc of capacity in the nonresidential market segment. This allocation added 137 MWdc of unused capacity from EY22 to a base of 150 MWdc. Since December 7, 2022, the pace of new applications has picked up slightly to 2.6 MWdc per week. At this pace, at current incentive levels, and assuming a 28% scrub rate, the non-residential market segment would result in installation of 98 MWdc over a one year period. A modest increase in incentive levels should boost the attractiveness of non-residential investments closer to the 150 MWdc annual installation goal.

Cadmus updated the economic models used to develop incentive levels for the ADI program in 2021. There are currently five core market segments with unique incentive levels established; 1. residential, 2. small non-residential rooftop, carport, canopy and floating solar, 3. small non-residential ground mount, 4. large non-residential rooftop, carport, canopy and floating solar and 5. large ground mount solar. Incentive levels for these five market segments were established based on the modeling results of ten “project variants”. Each market segment has a direct owned project variant and a third-party owned project variant which were combined into one incentive category primarily for administrative efficiency.

Input values were updated for each modeled project variant to reflect recent changes to the New Jersey solar photovoltaics (PV) market including federal investment tax credits (ITC), solar PV capital costs, operation and maintenance costs, and interest rates. Performance-based incentive needs (\$/MWh) were estimated for each project variant to reach an internal rate of return (IRR) target of 12.5% for commercial direct-owned projects and 9.7% for commercial third-party-owned projects. The incentive term for commercial projects was assumed to be 15 years. For residential projects, the economic target was assumed to be a payback period rather than an IRR, and both the payback period and incentive term were set at 10 years.

Staff provided the following recommendations for adjustments to incentive levels in the five core market segments of the ADI Program based on an analysis of market performance under current incentive levels, an update to the financial modeling of the market segments, and stakeholder input solicited in this proceeding. Staff recommended a modest decrease of \$5 per megawatt-hour in the net metered residential market segment and a moderate increase of \$5 to \$10 in the four net metered non-residential market segments.

Staff also recommended that the Board direct Staff to implement the incentive level changes in a manner that is least disruptive to the solar market and the efficient administration of the registration process. The incentive level reduction for the residential market segment would apply to projects registrations that are submitted on the effective date of this Order. Applying the adjustment to projects that have already been registered or providing developers more than one week to register projects under the higher incentive value would be likely to disrupt the efficient administration of the registration program. Staff further recommended that the incentive level increase for the non-

residential market segments would be applied to all projects that have registered but have yet to receive Permission to Operate from their Electric Distribution Company.

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

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

**D. Docket No. QO22080481 – In the Matter of the Opening of New Jersey's Third Solicitation for Offshore Wind Renewable Energy Certificates (OREC).**

**Andrea Hart, Esq., Senior Program Manager, Division of Clean Energy,** presented this matter.

**BACKGROUND AND DISCUSSION:** This matter involved Staff recommending: 1) the Board open the application window for the third offshore wind solicitation (Third Solicitation), inviting all interested parties to submit applications for consideration by June 23, 2023; and 2) waive certain application requirements.

On August 19, 2010, the Offshore Wind Economic Development Act (OWEDA) was signed into law, which amended and supplemented the Electric Discount and Energy Competition Act. As required by OWEDA, on February 10, 2011, the Board adopted rules, set forth in N.J.A.C. 14:8-6.1 et seq. (OREC Rules) that provided an application process and evaluation framework for offshore wind facilities. The Board readopted the OREC Rules with amendments on January 23, 2013.

Governor Phil Murphy signed Executive Order No. 8 on January 31, 2018, setting a “goal of 3,500 MW of offshore wind energy generation by the year 2030.”

In September 2018, the Board issued a solicitation for 1,100 MW of offshore wind energy generation (First Solicitation). In June 2019, the Board approved an application for an 1,100 MW offshore wind generation project submitted by Ocean Wind LLC.

November 19, 2019, Governor Murphy signed EO 92, increasing the State’s offshore wind energy generation goal to 7,500 MW by 2035.

On September 9, 2020, the Board issued a second solicitation for 1,200 to 2,400 MW of offshore wind generation projects (Second Solicitation). On June 30, 2021, the Board approved applications for an 1,510 MW project submitted by Atlantic Shores Offshore Wind Project 1, LLC and a 1,148 MW project submitted by Ocean Wind II, LLC.

On September 21, 2022, Governor Murphy signed EO 307, increasing the State’s offshore wind goal from 7,500 MW by 2035 to 11,000 MW by 2040 and directing the Board to study the feasibility of increasing the target further.

In preparation for the Third Solicitation, the Board approved a contract with Levitan & Associates (LAI) to act as the Board's offshore wind consultant for the development of the solicitation and the evaluation of applications received. LAI's scope of work included the preparation of a Solicitation Guidance Document for the Third Solicitation (SGD). The SGD provides the timeline and mechanics for the Third Solicitation, the application requirements, and the criteria for evaluating applications.

On October 28, 2022, Board Staff issued a Request for Information (RFI) to assist in developing the Third Solicitation. On November 30, 2022, a draft SGD was released for public comment, and on December 13, 2022, a public stakeholder meeting was held to receive comments on the draft SGD. The window for receiving written comments on the SGD closed on December 29, 2022. Comments received during the Public Meeting and the written comments period were carefully reviewed by Staff and LAI, and appropriate revisions were made to the final SGD. On February 24, 2023, Board Staff issued a second RFI for additional stakeholder input.

The goals of the Third Solicitation are to:

- Procure 1,200 MW of offshore wind capacity up to approximately 4,000 MW;
- Encourage competition;
- Promote economic development;
- Combat the threat of global climate change to New Jersey; and
- Achieve these goals at the lowest reasonable cost and lowest risk to New Jersey ratepayers.

The proposed evaluation weighting criteria includes:

- 70% for OREC purchase price and ratepayer impacts;
- 30% for non-price factors: 1) economic impacts and strength of guarantees for economic impacts and 2) environmental and fisheries impacts; and
- Likelihood of successful commercial operation criteria will be used to determine whether a proposed project is eligible to become a qualified offshore wind project, as defined under the OREC Rules, but will not be included in the quantitative scoring.

Proposed rule waiver: Per the Board's rules, each application must meet the requirements set forth at N.J.A.C. 14:8-6.5 et seq. However, the New Jersey Department of Environmental Protection (NJDEP) requested that the Board consider waiving the following specific requirement, so that an application does not need to include:

A description of how applicants' "activities will be coordinated with the New Jersey Department of Environmental Protection (NJDEP) Ecological Baseline Studies, and indicate how each resource issue, if impacted, will be addressed."

NJDEP requested, and Staff concurred, that this provision of the Board's rules be waived because the referenced Ecological Baseline Studies, which were conducted in 2009 and have not been updated since, are now outdated and thus not reflective of NJDEP's current efforts. Staff and NJDEP have closely coordinated to develop the State's most aggressive environmental requirements in an offshore wind solicitation to date, utilizing recent research. As such, at the suggestion of NJDEP, Board Staff requested that the Board waive the aforementioned rule relating to the outdated Ecological Baseline Studies.

Staff recommended that the Board open the application window from the effective date of this Order to 5:00 pm Eastern Time on June 23, 2023 to allow interested applicants sufficient time to prepare and submit their applications for Board consideration;

Staff also recommended that Board approve the use of the SGD to inform applicants of the Third Solicitation process and application requirements consistent with the rules.

Staff further recommended the Board waive N.J.A.C. 14:8-6.5(a)(11)(xiv)(2) at this time so that an application does not need to include a description of how applicants' "activities will be coordinated with the NJDEP Ecological Baseline Studies, and indicate how each resource issue, if impacted, will be addressed" because the Ecological Baseline Study is outdated.

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

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

## 9. MISCELLANEOUS

There were no items in this category.

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

*Sherri L. Golden*

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SHERRI L. GOLDEN  
BOARD SECRETARY

Date: April 12, 2023