



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

A Special Board meeting of the New Jersey Board of Public Utilities was held on July 26, 2023 and at the Board's Hearing Room at 44 South Clinton Avenue, Trenton and via online @ https://www.youtube.com/watch?v=u8yb_EnJogo

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 newspapers of broad circulation in the State of New Jersey.

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

Joseph L. Fiordaliso, President
Mary-Anna Holden, Commissioner
Dr. Zenon Christodoulou, Commissioner
Christine Guhl-Sadovy, Commissioner
Marian Abdou, Commissioner

President Fiordaliso presided at the meeting and Sherri L. Golden, Secretary of the Board, carried out the duties of the Secretary.

It was also announced that the next regular Board Meeting will be held on August 16, 2023 at 10:00 a.m. and would be a hybrid meeting at the Board's Hearing Room at 44 South Clinton Avenue, Trenton and livestreamed via YouTube.

EXECUTIVE SESSION

After appropriate motion, the following matters, which involved N.J.S.A. 10:4-12(b)(7) attorney-client privilege and/or contract negotiations exceptions, were discussed in Executive Session.

4. TELECOMMUNICATIONS:

- A. **Docket No. TO23070454 –In the Matter of the Digital Equity Planning Grant Program Pursuant to Section 60304 (c) of the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat.429-Executive Session.**

Valarry Ballard, Division of Broadband, presented this matter.

BACKGROUND: This item relates to the request to issue a Notice of Funding Availability for publication in the New Jersey Register to solicit bids from qualified entities and issue grant funds to assist with the development of the State's Digital Equity Plan consistent with the terms of this grant.

Staff requests the President to authorize the issuance of this notification of funding availability so that Staff can solicit for qualified bidders to assist with development of this plan consistent with the terms of the grant.

CONSENT AGENDA

I. AUDITS

There were no items in this category.

II. ENERGY

There were no items in this category.

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

There were no items in this category.

VII. CUSTOMER ASSISTANCE

There were no items in this category.

VIII. CLEAN ENERGY

There were no items in this category.

IX. MISCELLANEOUS

There were no items in this category.

AGENDA

1. AUDITS

NO ITEMS FOR CONSIDERATION

2. ENERGY

NO ITEMS FOR CONSIDERATION

3. CABLE TELEVISION

NO ITEMS FOR CONSIDERATION

4. TELECOMMUNICATIONS

A. Docket No. TO23070454- In the Matter of the Digital Equity Planning Grant Program Pursuant to Section 60304 (c) of the Infrastructure Investment and Jobs Act, Public Law 117-58. 135 Stat.429. Executive Session

Valarry Bullard, Director, Broadband, presented this matter.

BACKGROUND: This matter concerns Board Staff’s (“Staff”) request to issue a notice of funding availability for publication in the New Jersey Register to solicit bids from qualified entities and issue grant funds to assist with the development of New Jersey’s Digital Equity Plan consistent with the terms of the grant.

New Jersey’s participation in the Digital Equity Planning Grant Program, authorized pursuant to Section 60304(c) of the Infrastructure Investment and Jobs Act, Public Law 117-58, 135 Stat. 429.

Board Staff (“Staff”) recommends the Board approve the Notice of Fund Availability (“NOFA”) for publication in the New Jersey Register (“Register”) to solicit bids from qualifying entities to receive Grant funds to assist in the development of the Plan consistent with the terms of the Grant.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Christodoulou	Aye
	Commissioner Guhl-Sadovy	Aye
	Commissioner Abdou	Aye

5. WATER

There were no items in this category.

6. RELIABILITY AND SECURITY

There were no items in this category.

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QO23050289 In The Matter Of The Clean Energy Program Authorization Of Commercial And Industrial Energy Efficiency Incentives Exceeding \$500,000 - PRINCETON UNIVERSITY

Dustin Wang, Division of Clean Energy, presented to this matter.

BACKGROUND: Princeton University submitted an application under the Large Energy Users Program requesting Board approval of a financial incentive of \$753,174.42 for the installation of the energy conservation measures at four of the university's buildings, Schultz, Scully, and Moffett Halls and Butler College. This proposed project has an anticipated total cost of \$14,396,224.09.

The project is anticipated to annually consume an additional 1,070,926 kilowatt hours of electricity, but save 295,088 therms of natural gas, yielding an estimated annual energy cost savings of \$106,633.00. It is also anticipated to save approximately \$40 million in the first ten years and another \$20 million in the following 20 years by avoiding a steam piping replacement.

Staff recommends approval of the application for the total estimated incentive amount.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Christodoulou	Aye
	Commissioner Guhl-Sadovy	Aye
	Commissioner Abdou	Aye

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

Docket No. QO21050822 Pasadena Pemberton Solar Farm, LLC - Application For Solar Act Subsection (t), Block 906, Lot 1.01

Benjamin Hunter, Division of Clean Energy, presented to this matter.

BACKGROUND: This item relates to a Subsection (t) application from CEP Renewables to have its Pasadena Pemberton Solar Farm project certified as being located on a properly closed sanitary landfill pursuant to the Subsection (t) of the Solar Act of 2012. The applicant's proposed 10.387 megawatt project is to be located on 18 acres at the Pemberton Township Sanitary Landfill Site, Pemberton Township, Burlington County.

Staff reviewed the application and supplied a copy to the New Jersey Department of Environmental Protection for their review. Staff received an advisory memo on the application where the DEP determined that the Pemberton Township Sanitary Landfill does not constitute a properly closed sanitary landfill as it's defined in the Solar Act of 2012.

Based on the review of the application and the advisory memo provided by the NJDEP, staff recommends that the Board deny the applicant's 10.387 megawatt Pasadena Pemberton Solar Farm as being not located on a properly closed sanitary landfill consistent with the Solar Act of 2012.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Christodoulou	Aye
	Commissioner Guhl-Sadovy	Aye
	Commissioner Abdou	Abstain

C. Docket No. QO19010040 In The Matter Of The Implementation Of P.L. 2018, C. 17, The New Jersey Clean Energy Act Of 2018, Regarding The Establishment Of Energy Efficiency And Peak Demand Reduction Programs;

Docket No. QO23030150 In The Matter Of The Implementation Of P.L. 2018, C. 17, The New Jersey Clean Energy Act Of 2018, Regarding The Second Triennium Of Energy Efficiency And Peak Demand Reduction Programs; And

Docket No. QO17091004 In The Matter Of Electric Public Utilities And Gas 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 And N.J.S.A. 48:3-87.9 - Minimum Filing Requirements

Stacy Richardson, Director, Division of Clean Energy, presented this matter

BACKGROUND: This matter relates to Staff's remaining recommendations for the second three-year program cycle, or Triennium 2, of utility and State energy efficiency, or EE, and peak demand reduction programs implemented pursuant to New Jersey's Clean Energy Act of 2018, or CEA. These programs will run from July 2024 through June 2027.

After months of discussion in the EE working groups, including with utilities and New Jersey Division of Rate Counsel, the statewide evaluator and others, and following proper notice, Staff released straw proposals on June 7, 2023 and held two public stakeholder meetings on June 20, 2023 on the following remaining topics related to the Triennium 2 EE framework: Goals, targets, performance incentives and penalties, energy savings carryover, building decarbonization, or BD start-up programs, and demand response, or DR programs.

Staff invited stakeholders to provide written comments on these topics by June 27, 2023. Staff appreciates the in-depth, thoughtful comments and feedback from stakeholders. We reviewed and considered all comments received throughout this process to develop and modify recommendations. We've also prepared summaries of all comments and Staff's responses as attachments to the Board order in this matter. Regarding Triennium 2 goals, the CEA requires the establishment of EE and peak demand reduction programs that reduce the use of electricity and natural gas by public utility customers below what would have otherwise been used. The CEA requires a 2 percent reduction of electricity use within each electric public utility's service territory and a .75 percent reduction of natural gas use within each gas public utility's service territory within five years of implementation of the utilities' EE programs. That is, during Triennium 2, by the end of the fifth EE program year, which runs through June 2026.

Following the transition of EE programs to utilities during Triennium 1, those programs have been slowly, but steadily ramping up in terms of participation, expenditures, and energy savings in order to meet the CEA's energy reduction goals. As the programs continue to expand during Triennium 2, participation, energy savings, and budgets are expected to steadily increase to meet CEA goals by the fifth program year. The goal setting study conducted for Triennium 2 sought to identify cost effective goals for State and utility run programs by conducting three scenarios, business as usual, full compliance, and high adoption, and provided estimates of potential energy savings and program budgets for each scenario. Notably, the full compliance scenario identified achievable, cost effective energy savings measures by State and utility administered programs and outlined the progression of energy savings expected to be needed to meet CEA goals.

For Triennium 2, Staff recommends that the Board use net savings to support program planning and review State and utility incentive programs, including for compliance and cost effectiveness analysis. Also, per the CEA's language permitting application of energy savings attributable to programs available to utility customers to achieve performance targets, Staff recommends that the Board apply the net energy saving achieved through New Jersey's building code and efficiency standards and State run programs by other State agencies toward the goals established for State programs.

Staff, recommends applying net energy savings from incentive and other programs toward the CEA's annual energy reduction goals. Recognizing some of the limitations of the goal setting study, Staff recommends that State and utility program administrators use the State and utility specific net savings goals provided in the study as a starting point when developing proposed annual energy reduction goals.

At the same time, BPU is currently overseeing efforts to estimate the energy savings from New Jersey's recent adoption of more stringent building energy codes and appliance standards, as well as energy savings from the Weatherization Assistance Program administered by the New Jersey Department of Community Affairs, which would contribute to additional energy savings achieved by State programs. Staff, therefore, recommends that as part of Staff's review of State and utility program proposals, the Board authorize Staff to consider recommending State or utility

net savings goals at levels different than those in the goal setting study in the interest of reducing incentive program budgets and ratepayer impacts if assessment of energy savings from those forces supports an increase in the State's relative share of annual net energy reduction goals and thereby lowering the utilities' annual net energy goals. Regarding Triennium 2 performance targets, Staff recommends tracking and evaluating utilities' performance with six quantitative performance indicators, or QPIs. These QPIs include annual energy and demand savings that comprise 40 percent of the total QPI weighting, as well as QPIs based on lifetime energy savings that comprise 60 percent, with specific targets for savings by low and moderate income, or LMI, and overburdened community customers and small business customers. For the purpose of calculating QPIs, Staff recommends using source MMBtu, which provides a unifying, common energy unit to analyze and combine energy consumption impacts across fuels. Staff recommends that the Board authorize Staff to provide adjustments to and clarifications on the source MMBtu approach, if needed, in consultation with the Evaluation, Measurement, and Verification, or EM&V, Working Group. Regarding the mechanism to calculate the performance incentives and penalties, which will apply for the first time in Triennium 2 after the conclusion of program year 5, Staff's recommended performance incentive mechanism adjusts the utility's return on equity, or ROE, on the utility's EE and PDR program investment based on the utility's performance compared to the annual performance targets. There would be no adjustment to the ROE if a utility achieves between 80 to 120 percent of its annual performance targets, an ROE adjustment up to plus 50 basis points at 150 percent performance, and an ROE adjustment down to minus 400 basis points at 20 percent performance. Regarding energy savings carryover, Staff recommends that the Board continue to allow the utilities to bank energy savings achievements in excess of their annual targets in a given year and apply such achievements to the immediately subsequent program year in order to encourage acceleration of EE project adoption, support coordinated program delivery between gas and electric utilities, and promote continuity of market offerings. Staff recommends that energy savings carryover only be used to offset a penalty rather than to earn incentives and that the utilities may elect to carryover at the end of a program year with 12 months that election not being reversible. Regarding building decarbonization start up programs, or BD programs, Staff's recommendation is to initiate BD programs whose primary objectives are efficiency and conservation, with conservation constituting reductions in overall energy usage below what would have otherwise been used. These programs would be of a large enough scale to set the foundation for New Jersey in Triennium 2 to make significant progress in Triennium 3 with a specific focus on achieving Executive Order 316, or EO 316, goals, and thereafter toward cost effectively transforming New Jersey's building sector and achieving the State's efficiency, conservation, and BD goals. These Triennium 2 BD programs would help the State to evaluate policies on program design, EM&V, equity, workforce development, cost effectiveness, and performance incentives for future BD programs.

Staff believes that the BD programs as recommended are consistent with the overall purpose and intent of the CEA, which is to reduce energy consumption throughout the State, consistent with the purpose and intent of the Regional Greenhouse Gas Initiative Act, which is to conserve 10 energy or make the use of electricity or natural gas more efficient by New Jersey customers, and consistent with N.J.S.A. 52:27F-11, which provided the Board with various authorities, including the authority to conduct and supervise research projects and programs for the purpose of increasing EE and evaluating energy conservation measures. Regarding efficiency, the BD programs would offer financial incentives for New Jersey consumers currently using fossil fueled equipment to voluntarily adopt more efficient electric equipment. Regarding conservation, the BD programs would ensure that all projects result in net source energy savings on a fuel neutral basis. As with core EE programs, energy savings from BD programs will increase over time as the electric grid introduces increasing amounts of clean energy and electricity production becomes more efficient. Regarding New Jersey consumers currently using fossil fueled equipment who

voluntarily choose to convert to electric equipment, the BD programs would offer financial incentives to those consumers, as existing electric public utility customers, to voluntarily adopt more efficient equipment and use less energy than what they would otherwise would have as part of this fuel switching.

Staff therefore maintains that the BD programs are consistent with the Board's statutory authority and its call to conserve energy and make the use of electricity or natural gas by utility customers more efficient compared to what would have otherwise been used. Regarding greenhouse gas, or GHG, emissions, while not all decarbonization is based on efficiency or conservation, advancing efficiency and conservation through the BD programs will also reduce emissions. In addition to tracking and evaluating projects and measures for net source energy usage reductions by fuel type, the BD programs would also track and evaluate projects and measures for net source carbon dioxide equivalent reductions by fuel type. In other words, the BD programs would use both source energy and source carbon dioxide equivalent emissions among the metrics that provide data about the outcomes of the start-up programs that Staff believes will be helpful in designing full-fledged BD programs in Triennium 3. Staff recommends that the electric utilities propose BD programs as part of their portfolios of EE programs. These BD programs would prioritize customer incentives for electric space and water heating in the residential and multifamily sectors, focusing on customers voluntarily switching from delivered fuels to electric heat pumps and making buildings electrification ready while supporting participation by LMI and multifamily customers who are not eligible for the Comfort Partners programs, which is developing its own BD pilot program for low-income customers at no cost to participants. The BD programs may also provide incentives for gas customers to voluntarily adopt more efficient electric equipment. Staff recommends that the gas utilities be allowed to propose BD programs for gas customers who are eligible for hybrid heating systems that retain existing natural gas equipment, as well as district geothermal heating. Staff anticipates that the gas utilities will also propose to continue to offer incentives for new, higher efficiency natural gas equipment as part of their core EE programs. After consideration of stakeholder comments, Staff also recommends that the Board direct the EDCs and allow the GDCs to propose programs that serve the commercial sector. Also after consideration of stakeholder comments, Staff recommends that the EDCs and GDCs be allowed to propose BD programs that serve large commercial and/or industrial customers. Staff recommends that BD programs for commercial and/or industrial customers may comprise up to 30 percent of a utility's BD program budget in consideration of EO 316's relative targets for the residential and nonresidential sectors. Staff recommends that in developing program proposals, the utilities should collaborate to ensure a consistent set of BD program requirements and features statewide using as a starting point the Triennium 2 BD program's framework in Attachment B to the Board Order. Prior to filing proposed programs, the utilities should also seek stakeholder input to refine the design of these programs through at least two virtual public stakeholder outreach sessions. Highlights from the BD programs framework include the following: All BD programs should seek to leverage Inflation Reduction Act, or IRA, tax credits and electrification rebates based on customer eligibility; the BD programs designed in alignment with core EE programs and the IRA EE rebates that these programs will leverage; and Utilities should include incentives for customers and contractors in both EE and BD programs to encourage adoption and develop training for contractors to effectively promote the programs, as well as to effectively size and install BD measures. Staff recommends using the New Jersey Cost Test to prioritize and evaluate all BD program proposals and outcomes and recommends aiming for, but not requiring, a Cost Test result to 1.0 or greater in Triennium 2 so as to establish BD programs that build the necessary capacity and skills to deliver meaningful energy reductions while producing the empirical data needed to fully assess impacts and cost effectiveness. Staff believes that the CEA permits this approach for programs that are in the public interest and notes that there may be a greater expectation for the BD programs to pass the Cost Test in Triennium

3. After consideration of stakeholder comments regarding higher budget levels that support a reasonable ramp-up of programs between Triennium 2 and Triennium 3, Staff recommends a more robust budget than originally proposed for BD programs statewide that increases annually and reaches approximately \$144 million by the third year of Triennium 2 to better align with achievement of EO 316 goals, while also taking into account the effects of complementary IRA tax credits and rebates. Staff, therefore, recommends that each EDC should and each GDC may design its BD program to scale to achieve EO 316 goals with a budget maximum of approximately 7 percent, 8 percent and 9 percent of the utility's EE budgets in the three years of Triennium 2. If based on the estimated utility EE budgets in the goal setting study under the full compliance scenario, BD programs budgets statewide would be approximately \$84 million, \$120 million, and \$144 million, respectively. Staff also notes, however, that these are estimated budgets and the utilities will propose overall EE budgets, including BD program budgets for consideration by the Board. Regarding demand response programs, DR services offer an important mechanism for managing the reliability and economic optimization of the electric distribution system through voluntary customer participation. Staff views utility led DR programs as part of a larger market of open, portable grid flexibility services. The DR programs' rules and standards for data, information technology, and pricing, such as time of use tariffs, should be forward looking to reasonably align with core principles of the DR Strategic Plan, which envisions an increasing presence of dispatchable distributed energy resources, or DER. Attachment C to the Board order contains Staff's recommendations establishing the Triennium 2 framework for the DR programs, including DR Guiding Principles. Staff recommends that the Board direct the EDCs to propose new DR programs for customers wishing to take advantage of incentives. Staff recommends that the program proposals be consistent with open, modular, and portable grid flexibility services as defined in the DR Program Framework and that they be based on load management of non-generation assets, such as heating, ventilation, and air conditioning and water heaters. While a program may or may not incorporate advanced metering infrastructure, or AMI data, Staff recommends leveraging AMI data to provide measurement and verification at a suitable level of granularity for future DR transactions and to maximize the value of DR services. Staff recommends that GDCs implement new DR service programs that leverage smart thermostats or other communication technologies for load management of gas appliances for customers wishing to participate. The core principle of portability is applicable in that GDC run programs should not prevent customers from choosing or switching to third-party DR service providers and should give customers the rights to any data generated in connection to participation in the GDC run DR programs. Staff recommends that the GDCs be allowed to propose DR programs designed to incentivize customer actions during times of peak usage. In developing these program proposals, the utilities should collaborate to ensure a consistent set of DR program requirements and features statewide. Staff also recommends conducting a statewide study on a DER roadmap that would identify the priorities, experimentation, milestones, and timing required to achieve the mission outlined in the DR Guiding Principles. Staff would use the roadmap to develop recommendations for the Board specific actions and DER and DR programs for Triennium 3. Finally, Staff recommends that the utilities be allowed to propose pilot programs that align with the DR programs framework and Guiding Principles. In conclusion, these comprise Staff's recommendations on goals, targets, performance incentives and penalties, energy savings carryover, BD start-up programs, and DR programs. These recommendations are the result of extensive discussions, contributions from, and collaboration within State government, including a team effort on behalf of Staff, and among many organizations and stakeholders who continue to help advance New Jersey's EE programs.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Christodoulou	Aye
	Commissioner Guhl-Sadovy	Aye
	Commissioner Abdou	Recused

9. MISCELLANEOUS

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



SHERRI L. GOLDEN
BOARD SECRETARY

Date: 1-10-24