



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

MINUTES OF THE REGULAR MEETING OF THE BOARD OF PUBLIC UTILITIES

A regular Board meeting of the New Jersey Board of Public Utilities ("Board") was held on February 17, 2023, via online @ <https://www.youtube.com/watch?v=TYCCFSzEhx8>.

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

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

Joseph L. Fiordaliso, President
Mary-Anna Holden, Commissioner
Dianne Solomon, Commissioner
Robert M. Gordon, Commissioner
Dr. 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 8, 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

8. CLEAN ENERGY

A. Docket No. QO23010003 – In the Matter of Climate Action Fellowship Program Memorandum of Understanding Between the New Jersey Board of Public Utilities and Rutgers, the State University.

Dr. Kira Lawrence, Division of Clean Energy, presented this matter.

BACKGROUND: Rutgers University's Eagleton Institute of Politics administers an Eagleton Science and Politics Fellowship Program in which PhD-level scientists and engineers are placed within New Jersey State Government's executive and legislative branches to apply their training and expertise in the development and implementation of state policy. Since 2020-2021, the New Jersey Board of Public Utilities' ("Board") Division of Clean Energy ("DCE") has annually hosted one (1) fellow from the Fellowship Program to support the DCE's work. The DCE has subsequently hired previous Eagleton Science Fellows as full-time employees and identified the Eagleton Institute's Fellowship Program as an effective pipeline for people with the appropriate skills and expertise to advance the DCE's work. Given the DCE's ongoing need for staff with technical expertise and project management skills, the DCE has worked with the Eagleton Institute's staff to envision a Climate Action Track within the Fellowship Program that would entail the DCE funding up to four Climate Action Fellowships for fellows who would be embedded within and support the work of the DCE for the 2023-2024 fellowship year.

The Institute is amenable to administering four Climate Action Fellowships as part of the Institute's Fellowship Program. The DCE would fund the Eagleton Institute for up to four fellowships in the Climate Action Track for the 2023-2024 fellowship year (mid July 2023 – mid July 2024). DCE Staff ("Staff") would have an opportunity to review potential candidates and would only provide funding for the number of Fellows who would be embedded within DCE. A Memorandum of Understanding ("MOU") was created to govern this agreement.

Staff recommended that the Board approve the MOU and authorize the President to execute it.

B. Docket No. QO23010015 – In the Matter of the 2023 Northeast New Jersey LiDAR Data Recollection Project.

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

BACKGROUND: This matter pertained to a Memorandum of Understanding ("MOU") between the New Jersey Board of Public Utilities ("Board") and the New Jersey Department of Environmental Protection ("DEP") through which the Board would contribute grant funds from the Clean Energy Program fiscal year 2023 budget to support DEP's multi-agency regional light detection and ranging ("LiDAR") data collection project of six (6) counties within the northeast region of New Jersey commencing in the spring of 2023 (Bergen, Essex, Hudson, Middlesex, Monmouth, and Union).

DEP has partnered with the U.S. Geological Survey 3D Elevation Program and other federal and state agencies on LiDAR elevation data collection projects since 2014. For this re-collection project, DEP has obtained commitments from New Jersey Transit Corporation, the New Jersey Department of Human Services, and the New Jersey Office of Information Technology. The DEP would make up the remainder of the State's estimated total share of the project cost.

Board Staff ("Staff") recommended that the Board approve the MOU with DEP and authorize President Fiordaliso to execute the MOU on behalf of the Board.

C. Docket No. QO22050347 – In the Matter of the Petition of Ocean Wind LLC Pursuant to N.J.S.A. 48:3-87.1(f) for a Determination that Certain Easements and Consents Needed for Certain Environmental Permits in, and with Respect to, the County of Cape May are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project.

Jim Ferris, Division of Clean Energy, presented this matter.

BACKGROUND: On May 20, 2022, Ocean Wind LLC ("Ocean Wind") filed a petition with the New Jersey Board of Public Utilities ("Board") seeking a determination that certain easements across properties owned by the County of Cape May, New Jersey ("County") and certain consents needed from the County for certain environmental permits in and with respect to the County were reasonably necessary for the construction or operation of the Ocean Wind 1 qualified offshore wind project. The Ocean Wind 1 project was approved by the Board in June 2019 as New Jersey's first qualified offshore wind project.

The petition was filed pursuant to the 2021 Amendment to the Offshore Wind Economic Development Act ("2021 Amendment"), signed by Governor Murphy in July 2021. The 2021 Amendment grants qualified offshore wind projects the power to supersede state and local government powers with respect to certain property rights and consents. The power can only be exercised if the Board finds that the property rights and consents are "reasonably necessary" for construction or operation of a qualified offshore wind project.

According to Ocean Wind, the easements and consents sought under the petition are intended to enable construction and operation of the electricity export cables that would run from the offshore wind farm to the point of interconnection at the B.L. England substation, which would be one of two points of interconnection to the electric grid in New Jersey planned by the project.

On September 29, 2022, the Board conducted two (2) virtual public hearings, one in the morning and one in the evening.

On November 10, 2022, oral argument was held on the petition before the full Board, where the petitioner, New Jersey Division of Rate Counsel ("Rate Counsel"), the County, Ocean City, and the nine (9) municipalities presented their arguments.

The record in this matter also contained testimonies from Ocean Wind, the County, and the Rate Counsel.

Upon review of the record, Board Staff ("Staff") concluded that the B.L. England substation was a reasonable selection based on its location. Staff further concluded that the

preferred route was reasonable.

Staff recommended that the Board approve the petition.

CONSENT AGENDA

I. AUDITS

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

EE22100620L	AEC Energy, LLC	I – EA
EE22110697L	WKNRG LLC	I – EA
EE22120720L GE22120721L	NE Energy LLC	I – EA/PA
EE22110699L GE22110700L	E-Volve Energy Holdings, LLC	I – EA/EC

BACKGROUND: The New Jersey Board of Public Utilities (“Board”) must register all energy agents, private aggregators, and energy consultants, and the Board must license all third party electric power suppliers and natural gas suppliers. At its regular agenda meeting of August 18, 2021, the Board approved the final adoption of proposed amendments to N.J.A.C. 14:4 et seq., concerning energy competition and specifically to subchapter 5, N.J.A.C. 14:4-5 et seq., Energy Licensing and Registration. In accordance with the rule amendments, an energy agent, private aggregator, or energy consultant registration shall not expire so long as a registration renewal fee accompanied by an annual information update form is submitted to the Board within 30 days prior to the registrant’s annual anniversary date. N.J.A.C. 14:4-5.8(g); N.J.A.C. 14:4-5.11(e). Any registration renewal application that was filed prior to the effective date of the licensing and registration rule amendments, September 20, 2021, has been, and will continue to, be processed by Board Staff (“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. N.J.S.A. 48:3-78 to -79; N.J.A.C. 14:4-5.6 to -5.7; N.J.A.C. 14:4-5.8 to -5.9, and N.J.A.C. 14:4-5.11.

Staff recommended that the following applicants be issued initial registration as an energy agent, private aggregator and/or energy consultant: AEC Energy, LLC; WKNRG LLC; NE Energy LLC; and E-Volve Energy Holdings, LLC.

II. ENERGY

A. **Docket No. EO20090621 – In the Matter of the Petition of Atlantic City Electric Company for Approval of an Energy Efficiency Program, Cost Recovery Mechanism, and Other Related Relief for Plan Years One Through Three.**

BACKGROUND: On April 27, 2021, the New Jersey Board of Public Utilities (“Board”) issued an Order in this proceeding approving a stipulation of settlement (“Stipulation”) regarding Atlantic City Electric Company’s (“ACE or “Company”) Energy Efficiency (“EE”)

Program. The April 2021 Order provided ACE with approval to implement a three (3)-year program with a budget of approximately \$96.1 million. A specific tenant of the Stipulation and the April 2021 Order required ACE to combine its current component filings as it relates to Rider Regional Green Gas Initiative (“RGGI”) into one (1) annual filing beginning in 2023.

On January 17, 2023, ACE submitted a letter stating it believed that combining the reconciliation of its EE Program with its other Rider RGGI programs should wait until the conclusion of the initial three-year EE plan due to the budgetary structure of the EE Program, but that it would be willing to include the 2023 reconciliation of its EE Program in its annual RGGI filing to be filed in July 2023. ACE requested a response from the Board.

Board Staff (“Staff”) recommended that the Board grant ACE’s request to include the costs associated with the EE Program in its annual RGGI filing.

III. CABLE TELEVISION

There were no items in this category.

IV. TELECOMMUNICATIONS

A. Docket Nos. TO22110714 and TO22110716 – In the Matter of the Application of Verizon New Jersey Inc. and Fusion, LLC for Approval of an Amendment to an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

BACKGROUND: On November 30, 2022, Verizon New Jersey, Inc. (“Verizon”) and Fusion, LLC (“Fusion”) filed joint applications with the New Jersey Board of Public Utilities (“Board”) seeking approval of amendments to an Interconnection Agreement (hereinafter referred to as “Amendment 1” and “Amendment 2”) pursuant to Sections 251 and 252 of the federal Telecommunications Act of 1996 (“Act”). The parties sought approval of amendments to a negotiated Interconnection Agreement (“Agreement”) previously approved by the Board in Docket No. TO06120861.

The New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board regarding the amendments of the Agreement. Rate Counsel had no objections to the amendments filed.

Board Staff’s (“Staff”) review of the amendments to the Agreement indicated that they were consistent with the public interest, convenience, and necessity and did not discriminate against telecommunications carriers not parties to the Agreement. Accordingly, Staff recommended that the Board approve the amendments to the Agreement as outlined in Amendment 1 and Amendment 2.

B. Docket Nos. TO22110715 and TO22110717 – In the Matter of the Application of

Verizon New Jersey Inc. and Fusion Cloud Services, LLC for Approval of an Amendment to an Interconnection Agreement Under Section 252(e) of the Telecommunications Act of 1996.

BACKGROUND: On November 30, 2022, Verizon New Jersey Inc. (“Verizon”) and Fusion Cloud Services, LLC (“Fusion”) filed joint applications with the New Jersey of Public Utilities (“Board”) seeking approval of amendments to an Interconnection Agreement (hereinafter referred to as “Amendment 1” and “Amendment 2”) pursuant to Sections 251 and 252 of the federal Telecommunications Act of 1996 (“Act”). The parties sought approval of amendments to a negotiated Interconnection Agreement (“Agreement”) previously approved by the Board in Docket No. TO06120861.

The New Jersey Division of Rate Counsel (“Rate Counsel”) submitted comments to the Board regarding the amendments of the Agreement. Rate Counsel had no objections to the amendments filed.

Board Staff’s (“Staff”) review of the amendments to the Agreement indicated that they were consistent with the public interest, convenience, and necessity and do not discriminate against telecommunications carriers not parties to the Agreement. Accordingly, Staff recommended that the Board approve the amendments to the Agreement as outlined in Attachment 1 and Attachment 2.

V. WATER

There were no items in this category.

VI. RELIABILITY AND SECURITY

A. Docket Nos. GS22020083K, GS22040295K, GS22040296K, GS22040297K, GS22040298K, GS22040299K, GS22040300K, GS22040303K, GS22040304K, GS22040305K, GS22040306K, and GS22040307K – In the Matter of Alleged Violations of the Underground Facility Protection Act, N.J.S.A. 48:2-73 to -91.

BACKGROUND: This matter involved settlements of alleged violations of the Underground Facility Protection Act (“Act”) by both excavators and operators of underground facilities. This matter did not contain settlements involving catastrophic situations, death, or major property damage. The categories of infraction were failure to provide proper notice, failure to use reasonable care, and mismarking of facilities. The cases were settled in accordance with a penalty strategy, which escalates in relationship to aggravating factors, such as injury, property damage, fire, evacuation, road closure, and other public safety concerns, and provides disincentives for violations. There were 12 settlements in the attached Appendix, which total \$36,000.00.

Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) recommended that the Board approve the settlements provided in the attached Appendix so that these cases can be brought to closure.

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 4, 2022 Minutes.

After appropriate motion, the consent agenda was approved.

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Aye
	Commissioner Gordon	Aye
	Commissioner Christodoulou	Aye¹

¹ Commissioner Christodoulou abstained from voting on IX A.
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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. ER23-729-000 & EL23-19-000.

Ian Oxenham, Office of General Counsel, presented this matter.

BACKGROUND AND DISCUSSION: While reviewing bids in December 2022 for its latest capacity auction, PJM discovered a flaw in its auction design that if left unaddressed would force ratepayers in the Delmarva Peninsula to pay roughly \$100 million in unnecessary capacity costs. Ratepayers in New Jersey and Southeastern Pennsylvania could also have to pay slightly increased costs for capacity. On December 23, 2022 PJM Interconnection, LLC (“PJM”) submitted both a Federal Power Act Section 205 and a Federal Power Act Section 206 filing to the Federal Energy Regulatory Commission (“FERC”) proposing changes to its Open Access Transmission Tariff to rectify this issue.

The immediate cause of the problem was that PJM significantly overestimated the amount of capacity in Delmarva that would be bid into its capacity auction. This led PJM to overestimate the amount of capacity Delmarva needs, because how much capacity PJM calculates an area needs depends in part on how much capacity from that area PJM believes will bid into the auction.

Consequently, PJM included an unrealistically high demand for Delmarva capacity in its current auction parameters. While conducting preliminary calculations, PJM realized that failure to correct its mistaken assumptions would inflate capacity prices in Delmarva by a factor of four (4). PJM also indicated that the same design flaw could slightly increase capacity payments in New Jersey and Southeastern Pennsylvania. In light of this, PJM proposes to add tariff language that will require it to adjust local capacity requirements to reflect actual bids whenever incorrect assumptions regarding auction participation produce a material error in local capacity requirement calculation.

Though Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) did not necessarily think PJM’s proposal the best solution, in the interests of protecting ratepayers, Staff submitted comments in support of PJM’s proposal on January 20, 2023. These comments stressed that the current tariff provisions that created this outcome were unjust and unreasonable and that any corrective changes should be applied to the current capacity auction.

Staff also correctly anticipated that generator interests would argue applying to tariff revision to the current auction would be an illegal, retroactive tariff change that violates the Filed Rate Doctrine. Staff’s comments therefore also included a legal argument as to why applying the tariff change to the current auction constitutes a permissible, prospective change.

Staff recommended that the Board ratify the comments the Staff filed with FERC on January 20, 2023.

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

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

B. Docket No. GO22110704 – In the Matter of the Verified Petition of NRG Energy Inc. for a Generic Proceeding to Address Competitive Gas Supply Issues Relevant to Third Party Suppliers

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

BACKGROUND AND DISCUSSION: In the matter of the verified petition of NRG Energy, Inc. filed a petition asking the Board of Public Utilities (“Board”) to convene a generic proceeding to address gas supply issues that are of concern to third-party suppliers.

Since it had been sometime since the Board last examined the procedures and structures for Basic Gas Supply Service (“BGSS”), Board Staff (“Staff”) believed that it was appropriate to review the current BGSS structure and open a stakeholder proceeding. Staff further recommended that the Board direct Staff to open a new docket, notify all effective parties, post a notice of the proceeding on the Board’s website and close the docket for this instant matter.

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

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

C. Docket No. GC18111234 – In the Matter of the Verified Petition of the College of New Jersey for Relief from a Penalty Assessed by Public Service Electric and Gas Company.

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

BACKGROUND AND DISCUSSION: On November 9, 2018, the College of New Jersey (“TCNJ”) filed a petition seeking relief from the penalty assessed by Public Service Electric and Gas (“PSE&G”) Company regarding the consumption of natural gas during a period of interruption in January of 2018. On December 24, 2018, PSE&G filed a motion to intervene in this proceeding. On February 7, 2019, PSE&G filed an answer addressing the various points raised in TCNJ’s petition.

Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) recommended that the Board grant PSE&G’s motion to intervene. Staff further recommended that the Board retain this matter for hearings and designate a presiding Commissioner. Staff also recommended that the Board set a bar date of February 27, 2023 for the filing of any additional motions to intervene participate and/or admission pro hac vice. President Joseph Fiordaliso would serve as the presiding Commissioner for the matter.

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

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

D. Docket No. EO22110703 – In the Matter of the Petition of Jersey Central Power and Light Company for Approval of a Zero Emission Certificate Recovery Charge.

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

BACKGROUND AND DISCUSSION: On November 4, 2022 Jersey Central Power & Light Company (“JCP&L”) filed a petition seeking to true-up its Zero Emission Certificate (“ZEC”) collections and corresponding interest related to energy year 2022. JCP&L proposed to maintain its current Return of Excess Collections Credit Rate in order to prevent being in an under collected position. Under the proposal, the typical residential electric customer using 600 kilowatt hours per month would experience no bill impact.

Following a review of the petition and comments submitted by the New Jersey Division of Rate Counsel, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) recommended that the Board approve the tariff and no rate changes proposed by JCP&L and direct JCP&L to file revised tariffs prior to February 28, 2023 for service rendered on and after March 1, 2023. Staff further recommended that the Board deny JCP&L’s request to file revised rates via compliance filings going forward.

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

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

E. Docket No. ER22020035 – In the Matter of the Petition of Public Service Electric and Gas Company for Approval of Changes in its Electric Conservation Incentive Program (2022 PSE&G Electric CIP Rate Filing).

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

BACKGROUND AND DISCUSSION: On February 1, 2022 Public Service Electric and Gas

Company (“PSE&G”) filed a petition seeking approval to implement an Electric Conservation Incentive Program (“ECIP”) and associated customer class rates to account for lost sales revenues stemming from PSE&G’s energy efficiency program. The petition was based upon actual information through December 31, 2021 and forecasted information through May 31, 2022.

On June 8, 2022, the New Jersey Board of Public Utilities (“Board”) approved a provisional stipulation which implemented PSE&G’s ECIP mechanism subject to refund while the parties continued to review the matter. Based upon the provisional order, the typical residential customer was expected to experience a decrease in its annual bill of \$8.12. Throughout the course of this filing, PSE&G updated their schedules and shareholder contributions to reflect actual data through May 31, 2022. The parties executed a stipulation and recommended finalizing the implementation of the rates approved in the provisional order.

Board Staff (“Staff”) recommended that the Board approve the stipulation and direct PSE&G to file tariffs consistent with the stipulation by February 28, 2023.

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

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

F. Docket No. ER22090549 – In the Matter of Public Service Electric and Gas Company’s Request for an Accounting Order Authorizing the Company to Modify its Pension Accounting for Ratemaking Purposes.

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

BACKGROUND AND DISCUSSION: On September 1, 2022, Public Service Electric and Gas Company (“PSE&G”) filed a petition seeking authorization, for ratemaking purposes, to amortize the net gain or loss component of its pension expense utilizing the calculated or smoothed market related value of assets effective January 1, 2023. Additionally, PSE&G sought approval to record a regulatory asset or regulatory liability to account for the resulting difference in the amortization of the net gain or loss component of its pension expense or income between the current methodology and the proposed methodology for purposes of income statement reporting and to submit the recovery or return in rates the pension expense or income utilizing the proposed methodology.

Following a review of the petition, conducting extensive discovery, and further discussion, the parties executed a stipulation that would adopt PSE&G’s proposal in its entirety. As a result of the stipulation, there would be no immediate impact on ratepayers.

Staff of the New Jersey Board of Public Utilities (“Board”) (“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.

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

3. CABLE TELEVISION

A. Docket No. CO11110844 – In the Matter of Verizon New Jersey, Inc. Notice for Relief of a Requirement to Extend its FiOS TV Service to Certain Multi-Dwelling Unit Properties Located in Municipalities Where Extension of FiOS TV Service is Required Under the Terms of its System-Wide Franchise.

Lawanda Gilbert, Director, Office of Cable Television & Telecommunications, presented this matter.

BACKGROUND AND DISCUSSION: This matter addressed a petition filed by Verizon New Jersey (“Verizon”) seeking to waive deployment requirements of its FiOS TV service to seven (7) multidwelling units (“MDUs”), in several municipalities.

By way of background, changes to the New Jersey Cable Act enacted in 2006 permitted Verizon to offer cable television service throughout its telephone service footprint under a system-wise franchise granted by the New Jersey Board of Public Utilities (“Board”). As part of its franchise commitments, pursuant to N.J.S.A. 48:25.2 of the Act, Verizon was required to make its cable television service available to residential areas throughout the 70 most densely populated municipalities in the State. With respect to MDUs located within the 70 required towns, the Cable Act permitted Verizon to seek a waiver of deployment requirements from the Board in instances where Verizon was unable to reach an agreement with the MDU property owner to access the buildings to install their equipment to provide service. In total, Verizon submitted 84 separate requests for relief containing varying numbers of MDUs to locate throughout the 70 required towns.

On November 8, 2011, Verizon filed the instant request initially seeking a waiver for 11 MDUs. Since the filing, Verizon submitted notice to the Board indicating it had reached an agreement for access with owners of four (4) of those properties, thereby withdrawing them from the waiver request.

As a condition of the Board’s renewal of Verizon’s franchise in December 2020, Verizon was required to refresh the data on its pending waiver petition. Verizon submitted information indicating that it continues to be unsuccessful in negotiating access agreements for FiOS TV service in the seven (7) remaining MDUs listed in its November 8, 2011 filing. The Office of Cable Television and Telecommunications (“OCTV&T”) sent correspondence to the seven (7) remaining MDU property owners giving them an opportunity to comment on Verizon’s waiver request. No responses were received.

The New Jersey Division of Rate Counsel (“Rate Counsel”) filed comments generally supporting the approval of Verizon’s request for relief, but recommended the Board include conditions that reaffirm deployment obligations should requests for service from these locations be renewed and technology advances to facilitate FiOS deployment at these locations.

As the waiver request had been pending for several years, Board Staff (“Staff”) believed Verizon met its burden and under the Cable TV Act and recommended that the Board approve Verizon’s request for relief of the requirement to extend FiOS TV service to the seven (7) remaining properties listed in the November 8, 2011 filing, along with reaffirming this deployment obligation as noted by Rate Counsel.

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

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

4. TELECOMMUNICATIONS

There were no items in this category.

5. WATER

There were no items in this category.

6. RELIABILITY AND SECURITY

A. Docket No. AA15090993 – In the Matter of the Letter Request by One Call Concepts, Inc. for Approval of a Tariff for Operation of the New Jersey One-Call Damage Prevention System and Request to Extend Contract for Underground Facilities Protection Services.

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

BACKGROUND AND DISCUSSION: This matter concerned a third one-year extension of a contract awarded to One Call Concepts (“OCC”), Inc. to continue as the operator of the One Call Damage Prevention System. The extension would allow for a continuity of this service during the procurement process. The third extension would begin from March 1, 2023 and end on February 28, 2024.

Under the contract, OCC would provide a federally mandated service that protects excavators, employees of utility companies, and the residents of New Jersey from potential injury or death, outages, and environmental harm caused by damage to gas, electric, water, sewerage, and telecommunication lines.

OCC, among other things, receives excavator requests for underground facility operators to mark the location of underground facilities in an area planned for excavation or demolition. Excavators contact the system through OCC’s website or by calling 8-1-1. OCC provides those messages to the underground facility operators.

The contract allowed for two (2) one-year extensions for a five-year term, which began on March 1, 2016 and ended February 28, 2021. The first extension ran from March 1, 2021 and ended on February 28, 2022. The second extension began on March 1, 2022 and ended on February 28, 2023, or it will end on February 28, 2023.

The State of New Jersey standard terms and conditions permits additional extensions of a contract when the extension is in the best interest of the State. A continuation of this contract is necessary to avoid endangering the lives of New Jersey residents.

On December 20, 2022, OCC agreed to extend their services for an additional, for an additional year under the current terms and conditions of the contract. On February 13, 2023, Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) received final approval from New Jersey Department of Treasury for the extension.

Staff recommended that the Board grant the third one-year extension of the contract beginning March 1, 2023 and ending February 28, 2024. During this time, Staff would complete the process of procuring a system operator under a new Request for Proposal (“RFP”).

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

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

7. CUSTOMER ASSISTANCE

There were no items in this category.

8. CLEAN ENERGY

A. Docket No. QO23010003 – In the Matter of Climate Action Fellowship Program Memorandum of Understanding Between the New Jersey Board of Public Utilities and Rutgers, the State University.

Dr. Kira Lawrence, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This matter was initially discussed in executive session. Rutgers University’s Eagleton Institute of Politics administers an Eagleton Science and Politics fellowship program in which PhD level scientists and engineers are placed within New Jersey State government’s executive and legislative branches to apply their training and expertise in the development and implementation of State policy. Since 2020-2021, the New Jersey Board of Public Utilities’ (“Board”) Division of Clean Energy (“DCE” or “Division”) has annually hosted one (1) fellow from the fellowship program to support the Division’s work. The Division has identified the Eagleton Institute Fellowship Program as an effective pipeline to bring in scientists and engineers with relevant skills and expertise to help advance the Division’s clean energy agenda.

Given the success with the program over the last three (3) years and the Division's ongoing need for technical expertise and additional assistance, the Division has worked with the Eagleton Institute's staff to develop a Climate Action Track within the fellowship program. This track would provide an enhanced and expanded opportunity to connect science and policy towards achieving our climate action goals.

Board Staff ("Staff") prepared a Memorandum of Understanding ("MOU") to govern this agreement. The MOU would authorize and support funding for up to four (4) Climate Action Fellowships for fellows who would be embedded within and support the work of the Division for the 2023-2024 fellowship year. Staff recommended that the Board approve the MOU as discussed in executive session and authorize the President to execute it.

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

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

B. Docket No. QO23010015 – In the Matter of the 2023 Northeast New Jersey LiDAR Data Recollection Project.

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

BACKGROUND AND DISCUSSION: This matter was initially discussed in executive session. This matter pertained to a Memorandum of Understanding ("MOU") between the New Jersey Board of Public Utilities ("Board") and the New Jersey Department of Environmental Protection ("DEP") through which the Board would contribute grant funds from the Clean Energy Program fiscal year 2023 budget to support DEP's multi-agency regional light detection and ranging ("LiDAR") data collection project of six (6) counties within the northeast region commencing in the spring of 2023. These include the counties of Bergen, Essex, Hudson, Middlesex, Monmouth, and Union.

DEP has partnered with U.S. Geological Survey 3D Elevation Program and other federal and state agencies on LiDAR elevation data collection projects since 2014. For this re-collection project, DEP has obtained commitments from the New Jersey Transit Corporation, New Jersey Department of Human Services, and the New Jersey Office of Information Technology. The DEP would make up the remainder of the state's total share of the budget cost.

Board Staff ("Staff") recommended that the Board approve the MOU with DEP and authorize President Fiordaliso to execute the MOU on behalf of the Board.

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

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

Commissioner Christodoulou Aye

C. Docket No. QO22050347 – In the Matter of the Petition of Ocean Wind LLC Pursuant to N.J.S.A. 48:3-87.1(f) for a Determination that Certain Easements and Consents Needed for Certain Environmental Permits in, and with Respect to, the County of Cape May are Reasonably Necessary for the Construction or Operation of the Ocean Wind 1 Qualified Offshore Wind Project.

Jim Ferris, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This matter was initially discussed in executive session. On May 20, 2022 Ocean Wind, LLC filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking a determination that certain easements across properties owned by the County of Cape May, New Jersey (“County”) and certain consents needed from the County for certain environmental permits in and with respect to the County are reasonably necessary for the construction or operation of the Ocean Wind 1 qualified offshore wind project. Ocean Wind 1 was approved by the board in June 2019 as New Jersey’s first qualified offshore wind project.

The petition was filed pursuant to the 2021 amendment to the Offshore Wind Economic Development Act signed by Governor Murphy in July of 2021. The 2021 amendment grants qualified offshore wind projects the ability to seek local government property interests and supersede local government approvals and consents. This power can only be exercised if the Board finds that the property interests and consents are reasonably necessary for construction or operation of a qualified offshore wind project.

The easements and consents sought under the petition are intended to enable construction and operation of the electricity export cables that will run from the offshore wind farm to the point of interconnection at the B.L. England substation, which is one of two (2) points of interconnection to the electric grid in New Jersey that are planned by the project.

On September 29, 2022, the Board conducted two (2) virtual public hearings in this matter, one in the morning and one in the evening. On November 10, 2022, oral argument was held on the petition before the full Board wherein the petitioner, the New Jersey Division of Rate Counsel (“Rate Counsel”), the County, Ocean City and the nine (9) municipalities presented their arguments. The record in this matter also contains testimonies from Ocean Wind, the County, and Rate Counsel.

Staff recommended that the Board approve the petition, ratify the President’s procedural orders, and deny the still pending motion for reconsideration as discussed in executive session.

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

Roll Call Vote:	President Fiordaliso	Aye
	Commissioner Holden	Aye
	Commissioner Solomon	Nay
	Commissioner Gordon	Aye
	Commissioner Christodoulou	Aye

D. Docket No. QO20020111 – In the Matter of the Petition of New Jersey-American Water Company for “Preferred” TREC Factor for Floating Photovoltaic Solar Pursuant to the Board’s Transition Incentive Order.

Sawyer Morgan, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This agenda related to a stipulation executed between Staff of the New Jersey Board of Public Utilities (“Board”) (“Staff”) and New Jersey-American Water Company (“NJAW”). The stipulation set a Transition Renewable Energy Credit (“TREC”) factor for NJAW’s Canoe Brook floating solar energy project.

The Transition Incentive Program set the base incentive value of the TREC, at \$152.00 per megawatt hour. This is adjusted for various solar market segments with factors between 0.6 and 1.0 based on estimated project costs and revenues. On January 8, 2020, the Board stated that new or innovative solar technologies can file a petition with the Board requesting that these types of projects be assigned a TREC factorization level.

NJAW filed a petition on February 4, 2020 seeking a 1.0 factor for floating solar generally and their project, a floating 8.9 megawatt solar array at NJAW’s Canoe Brook water treatment facility. It is now the largest floating solar system in North America.

On July 15, 2020, the Board found that the petitioners had not demonstrated that the Canoe Brook project merited a specific TREC factor. The Board encouraged Staff and the petitioner to continue discovery and engage in settlement discussions to reach an appropriate incentive level.

Staff and the petitioner engaged in settlement discussions and modeling of the project. Following settlement discussions, the parties executed a stipulation on December 22, 2022 which provided in part: a) the parties agree that the modeling provided by the petitioner, as adjusted by Staff and its consultant, resulted in a TREC factor of 0.76 or \$115.52 megawatt per hour for the Canoe Brook project; b) the parties agree that settlement of this matter based on submitting System Advisor Model modeling and prior discovery is a reasonable mechanism to revolve the TREC factor; and c) the parties recommend that the Board provide TRECs to the Canoe Brook Project at a 0.74 factor, contingent upon compliance with the Board’s regulations. The parties also recommended that the 0.76 TREC factor not be deemed precedent for any other floating solar project. The New Jersey Division of Rate Counsel also submitted comments on this stipulation.

Staff recommended that the Board approve the stipulation agreed to between Staff and NJAW.

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

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

Commissioner Christodoulou Recused

E. Docket No. QO21101186 – In the Matter of the Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c. 169 – Motion for Reconsideration.

Veronique Oomen, Division of Clean Energy, presented this matter.

BACKGROUND AND DISCUSSION: This item related to a motion for reconsideration filed on December 22, 2022 by the Mid-Atlantic Renewable Energy Coalition (“MAREC”), and the Dakota Power Partners on the order launching the Competitive Solar Incentive (“CSI”) Program.

The petitioners argued that the New Jersey Board of Public Utilities’ (“Board”) order from December 7, 2022 launching the CSI Program contained three (3) errors. First, that by not establishing an escrow fee for bidders into the CSI program, the CSI order was not compliance with the Solar Act of 2021. Second, that the maturity requirements set by the Board requiring that bidders into the program have a completed PJM Interconnection, LLC (“PJM”) feasibility study are not sufficient to discourage speculative projects from bidding or receiving awards. And, third, that the Board incorrectly interpreted the Solar Act’s 5 percent county limit regarding certain siting of solar projects on farmland. Specifically, petitioners interpreted the language to apply the 5 percent concentration limit only to projects that are seeking a waiver from the Board to site a solar power electric generation facility on prohibited land uses.

Staff reviewed the petitioner’s arguments and the CSI Program design and requirements as established in the December 7, 2022 order and notes the following. First, Staff agreed with the petitioners that the Solar Act of 2021 required that the Board impose an appropriate escrow fee and that the CSI order should have explicitly addressed the statutory requirement. However, Staff believed that a delay in the implementation of the escrow fee would allow the Board to avoid negatively affecting petitioners in this first solicitation and that it is reasonable for the Board to wait until the Board and the State have gained experience with this program before imposing a potentially chilling escrow fee and that the Board sets the fee for the first solicitation at zero.

And, second, in establishing project maturing requirements, the Board sought to balance the level of competition in the solicitation against the need to ensure that participating project have a reasonable chance of reaching commercial operation within the timelines established by the program. Staff did not agree with the more stringent maturity requirements suggested by the petitioners.

Third, Staff did not share petitioners’ views on the county concentration limit. In its December order, the Board explained that Staff, in cooperation with the Department of Agriculture, the State Agriculture Development Committee, and the Department of Environmental Protection had developed the recommendation based on the agencies common understanding of Section 6(f) of the Solar Act of 2021, namely the 5 percent concentration limit is a separately enforceable statutory requirement. Staff did not recommend any changes to the statutory interpretation set forth in the order establishing the CSI Program.

Based upon the review of the petitioner’s arguments and the December 7, 2022 order launching the CSI Program, Staff recommended that the Board deny the motion for reconsideration brought by MAREC and Dakota Power Partners; grant the motion with respect

to clarifying the CSI order's treatment of the statutory escrow fee; and clarify that it considered the appropriate escrow fee pursuant to the statute and found that the appropriate escrow fee for the first competitive solicitation was zero. Staff further recommended that the Board find that revisiting the level of the escrow fee following the first solicitation was warranted. Staff further recommended that the Board deny the other points of the arguments.

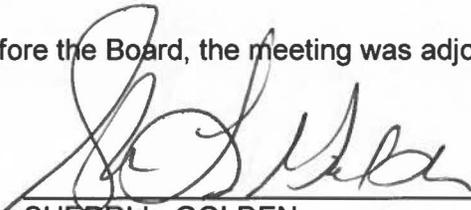
DECISION: After discussion, the Board adopted the recommendation of Staff as set forth above.

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

9. MISCELLANEOUS

There were no items in this category.

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



SHERRI L. GOLDEN
BOARD SECRETARY

Date: October 11, 2023