



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

IN THE MATTER OF THE PETITION OF PIVOTAL) ORDER
UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN)
GAS FOR AUTHORITY TO EXTEND THE TERM OF)
ENERGY EFFICIENCY PROGRAMS WITH CERTAIN)
MODIFICATIONS AND APPROVAL OF ASSOCIATED)
COST RECOVERY MECHANISM) DOCKET NO. GO18070682

Parties of Record:

Deborah M. Franco, Esq., Regulatory Affairs Counsel for Elizabethtown Gas Company
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

By this Decision and Order, the New Jersey Board of Public Utilities ("Board") considers a stipulation of settlement ("Stipulation") executed by Elizabethtown Gas Company¹ ("ETG" or "the Company"), the New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff") (collectively, "Parties"), which resolves the above-captioned matter.

BACKGROUND AND PROCEDURAL HISTORY

On January 13, 2008, the Global Warming Response Act P.L. 2007, c. 340 ("Act") was signed into law based on the New Jersey Legislature's findings that energy efficiency and conservation measures must be essential elements of the State's energy future, and that greater reliance on energy efficiency and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and energy efficiency industries are essential to maximize efficiencies. N.J.S.A. 26:2C-45.

Pursuant to Section 13 of the Act, codified as N.J.S.A. 48.3-98.1(a)(1), an electric or gas public utility may, among other things, provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis. Such investment in energy efficiency and

¹ In an Order dated June 22, 2018 issued in BPU Docket No. GM17121309, the Board approved, inter alia, the acquisition of Elizabethtown Gas, then a utility operating division of Pivotal Utility Holdings, Inc., by ETG Acquisition Corp., a wholly owned subsidiary of South Jersey Industries, Inc. The acquisition was consummated on July 1, 2018 and ETG Acquisition Corp. was renamed "Elizabethtown Gas Company."

conservation programs may be eligible for rate treatment approved by the Board, including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas. N.J.S.A. 48:3-98.1(b). Ratemaking treatment may include placing appropriate technology and program costs through another ratemaking methodology approved by the Board. An electric or gas public utility seeking cost recovery for any energy efficiency and conservation program pursuant to N.J.S.A. 48:3-98.1 must file a petition with the Board.

By Order² dated August 3, 2009 in Docket Nos. EO09010056 and GO09010060 the Board approved a stipulation authorizing ETG to administer six energy efficiency programs (collectively, "Original EE Program") for a 17-month period ending on December 31, 2010. The total EE Program expenditures, including operating and maintenance ("O&M") expenses were estimated to be \$14,673,100. The August 2009 Order also authorized ETG to recover costs associated with its Original EE Program through a rider ("EEP Rider") in ETG's tariff.

By Order³ dated January 19, 2011 in Docket Nos. GO10070466 and GO10100735, the Board approved a stipulation authorizing ETG to extend its Original EE Program for a one-year period ending on December 31, 2011. By Order⁴ dated November 30, 2011 in Docket No. GO11070399, the Board authorized ETG to continue the Company's Original EE Programs through April 29, 2012.

By Order⁵ dated April 11, 2012 in Docket No. GO11070399, the Board authorized ETG to continue three sub-programs of its Original EE Program:

1. Residential Expanded Gas HVAC;
2. Small Commercial Customer Energy Efficiency Program; and
3. Large Commercial Energy Efficiency Program.

By Order⁶ dated August 21, 2013, in Docket No. GO12100946, the Board authorized ETG to extend the term of the following programs for a period of two years through September 1, 2015:

1. Residential Expanded HVAC and Gas Hot Water Heater Incentive Program;
2. Commercial Customer Energy Efficiency Program; and
3. Customer Education and Outreach/Dashboard Program.

² In the matter of Energy Efficiency Programs and Associated Cost Recovery Mechanisms and In re the Petition of Pivotal Holdings, Inc. d/b/a Elizabethtown Gas Company for Approval of Energy Efficiency Program and a Regional Greenhouse Gas Initiative Cost Recovery Ride BPU Docket Nos. EO09010056 and GO09010060 (August 3, 2009) ("August 2009 Order").

³ In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas to Revise its Regional Greenhouse Gas Initiative Rider Rate and In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism and Deferral Accounting Treatment, BPU Docket Nos. Docket Nos. GO10070466 and GO10100735 (January 19, 2011).

⁴ In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery, BPU Docket No. GO11070399 (November 30, 2011).

⁵ In the Matter of The Petition of Pivotal Utility Holdings, Inc. D/B/A Elizabethtown Gas Company for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery, BPU Docket. No. GO11070399 (April 11, 2012).

⁶ In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism, BPU Docket No. GO12100946 (August 21, 2013) ("August 2013 Order").

By Order⁷ dated December 16, 2015, in Docket Nos. GO150150504 and GO12100946, the Board approved a stipulation authorizing ETG to extend the programs approved in the August 2013 Order through December 31, 2016.⁸

By Order⁹ dated April 21, 2017, the Board authorized the following programs through December 31, 2018 and approved recovery of the associated costs:

1. Residential Gas Heating Ventilation and Air Conditioning ("HVAC") and Gas Hot Water Heater Incentive Program;
2. Residential Home Energy Assessment Program;
3. Residential Home Energy Report (OPOWER) Program;
4. Residential Home Weatherization for Income Qualified Customers Program; and
5. Commercial Steam Trap Survey and Repair Program.

The April 2017 Order extended the programs through December 31, 2018 at a budget of \$3.8 million and approved recovery of the costs necessary to deliver these programs, including grants, incentives, incremental operations and maintenance ("O&M") expenses and carrying costs is provided through its EEP Rider.

JUNE 29, 2018 PETITION

On June 29, 2018, the Company filed a petition ("Petition") which was assigned BPU Docket No GO18070682 to extend the term of the five subprograms listed above for a one-year period, effective January 1, 2019.

By Order dated August 29, 2018 ("August 29 Order"), the Board designated Commissioner Robert M. Gordon as the presiding officer in this matter. The August 29 Order authorized Commissioner Gordon to rule on all motions and modify schedules, as well as to render a decision on a stipulation to extend the 180-day review period applicable to these proceedings to the extent the stipulation is signed by all parties. The August 29 Order further directed that all motions to intervene, participate and appear pro hac vice be filed with the Board by September 21, 2018.

On September 20, 2018, Public Service Electric and Gas Company ("PSE&G") moved to participate in this proceeding. By letter dated October 25, 2018, ETG filed a position of no objection.

⁷ In re the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism, BPU Docket Nos. GO12100946 and GO15050504 (December 16, 2015) ("December 2015 Order").

⁸ The December 2015 Order authorized ETG to continue the following programs: 1) Residential Expanded HVAC and Gas Hot Water Heater Incentive Program; 2) Commercial Customer Energy Efficiency Program; and 3) Dashboard Program

⁹ In re the Petition of Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism, BPU Docket No. GR16070618 and GO15050504 (April 21, 2017) ("April 2017 Order").

By Order dated October 29, 2018 ("October 29 Order"), the Board reassigned this matter to Commissioner Dianne Solomon. The October 29 Order also approved a stipulation to extend the review period until February 28, 2019 and extended funding for the existing programs.¹⁰

By Order dated November 5, 2018, Commissioner Diane Solomon approved a procedural schedule applicable to this proceeding and granted PSE&G participation status.

After notice, public hearings were held on October 22, 2018 in Flemington, New Jersey and October 24, 2018 in Union, New Jersey. No members of the public attended.

STIPULATION

Following a review of the Petition and discovery, the Parties discussed the issues in this matter. Subsequently, on January 11, 2019, the Parties executed the Stipulation, which provides in relevant part for the following:¹¹

- A. Effective Date.** A Board Order approving the Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.
- B. Extension of EE Programs.** ETG is authorized to offer the individual EE Programs described in Appendix A through February 29, 2020 at a total budget of approximately \$3 million as set forth in Appendix B of the Stipulation. Appendix A of the Stipulation includes the following programs:
- (i) Residential Gas Heating Ventilation and Air Conditioning ("HVAC") and Gas Hot Water Heater Incentive Program. As reflected in Appendix A, the water heating rebate for the Tankless, On Demand Water Heater and Tank, Power-Vented Water Heater is \$100. The efficiency standards for the equipment associated with all rebates offered under this program have been updated to align with the efficiency standards associated with the New Jersey Clean Energy Program ("NJCEP");
 - (ii) Residential Home Energy Assessment Program;
 - (iii) Residential Home Energy Report (Opower) Program;
 - (iv) Residential Home Weatherization for Income Qualified Customers Program; and
 - (v) Commercial Steam Trap Survey and Repair Program.

If and to the extent an extension of ETG's EE Programs is sought beyond February 29, 2020, the Company will solicit proposals from qualified vendors for work associated with the Residential Home Energy Assessment Program, Residential Home Energy Report (Opower) Program and the Commercial Steam Trap Survey and Repair Program.

¹⁰ As reflected in the approved 180-Day Stipulation, to fund program expenditures and O&M expenditures associated with the EE Program during the extension period, ETG will utilize: (1) the \$405,955 projected to remain in ETG's EE Program budget as of December 12, 2018; and (2) additional funding of approximately \$136,899.

¹¹ Although summarized in this Order, the detailed terms of the Stipulation are controlling, subject to the findings and conclusions of this Order. Each paragraph is numbered to coincide with the paragraphs of the Stipulation.

C. Cost Recovery Mechanism. The Company will continue to recover EE Program costs through its existing EEP Rider G rate. The revenue requirement recovered through the EEP Rider rate will be calculated to include a return on program investments and a return of the Company's investments through amortization of the program costs, as well as associated carrying costs. The revenue requirement recovered through the EEP Rider rate for the programs and budget agreed to in this Stipulation will be calculated to include the following components:

- Return on the unamortized portion of the EE Program investments utilizing the after tax weighted average cost of capital ("WACC") of 6.063% established in the Company's most recent base rate case, adjusted for the Federal Income Tax change effective January 1, 2018, inclusive of a 9.60% return on equity, grossed up for a revenue expansion factor of 1.40828098 which consists of factors for state income taxes of 9%, federal income taxes of 21%, uncollectibles of 0.984% and Board/Rate Counsel assessments of 0.2421%. The unamortized portion of the EE Program investments are net of accumulated amortization and accumulated deferred income taxes associated with the EE Program investments. The Home Energy Report Program will continue to be an EE program expenditure which will be capitalized upon which Elizabethtown will be able to earn a return at the after-tax WACC of 6.063%, inclusive of a 9.60% return on equity. The capitalization of the Home Energy Report Program and application of the WACC to Home Energy Report expenditures during the extension term does not provide precedential support for applying this treatment in future proceedings, nor does it affect the rights of any Party to take any position it deems appropriate in connection with this issue in future proceedings;
- The Company shall update the WACC applied to EE Program unamortized investments in future reconciliation proceedings to reflect any Board-approved WACC used to set rates in a subsequent Company base rate case. This Stipulation does not affect the rights of any Party to take any position it deems appropriate in connection with this issue in a future base rate case, reconciliation proceeding or otherwise. However, the Parties have agreed that any change in the WACC authorized by the Board in a subsequent base rate case and applied to EE Program unamortized investments in future reconciliation proceedings will be reflected in the subsequent monthly revenue requirement calculations. The Parties have further agreed that any change in the revenue requirement resulting from the change in the WACC will not be included in the monthly interest calculation for over- and under-recoveries until the date of the filed annual true up in which the WACC change is proposed and approved by the Board;
- Amortization expense calculated using a four-year amortization period;
- Prudent and reasonable O&M expenses, including customer education and outreach costs, and internal labor costs; the labor allocation will not include incentive compensation costs; and
- Carrying costs on over- and under-recovery balances calculated in the manner set forth below.

A sample calculation of the EEP Rider rate as well as projected rates inclusive of the Extension Period costs are set forth in Appendix C of the Stipulation that will be included in the Company's Annual Filings as discussed in the Stipulation.

As reflected on Appendix B of the Stipulation, the budget reflects approximately \$272,000 in EE Program related labor costs. If and to the extent an extension of Elizabethtown's EE Programs is sought beyond February 29, 2020, the parties reserve their rights to examine the allocation of labor costs to the EE Program that are recoverable through the EE Rider rate. In any such filing, the Company will provide information to support the allocation of labor costs to the EE Program, including a list of the responsibilities performed by the employees whose costs are allocated to the EE Program and recovered through the EE Rider rate. The Parties expressly reserve their rights to argue their respective positions on the issue of allocation of labor costs to the EE Program and take any position they deem appropriate.

- D. Carrying Costs.** In calculating the monthly interest on net over-recoveries and under-recoveries, the interest rate shall be based upon the Company's interest rate obtained on its commercial paper and/or bank credit lines. If both commercial paper and bank credit lines have been utilized, the weighted average of both sources of capital shall be used. The Company shall accrue simple interest with an annual roll-in at the end of each 12-month period. The interest rate shall not exceed the Company's WACC as defined above. Interest shall be calculated based on the net-of-tax average monthly balance. The true-up calculation for over-recoveries and under-recoveries will be included in the Company's Annual Filing as defined in the Stipulation.
- E. Rate Design.** Rate recovery through the EEP Rider rate will be effectuated through the assessment of a non-bypassable volumetric surcharge on all customer service classes, except customers exempt from such charges by law, or specifically and expressly exempted from such charges under special contracts previously filed with and approved by the Board. Any new or existing large volume customer who participates in any EE Program will be subject to the EEP Rider rate.
- F. Annual Filing.** As is currently the case, the Company will file an annual petition ("Annual Filing") to adjust its EEP Rider rate on an annual basis, with copies provided to Board Staff and Rate Counsel with a proposed implementation of the revised EEP Rider rate in October of each year. Each Annual Filing will contain a reconciliation of the projected EEP Rider rate costs and recoveries and actual revenue requirements. As is currently the case, Elizabethtown will provide separate information for each approved program and extension.
- G. Rate Impact.** There is no impact to the annual bill of a typical residential heating customer using 1,000 therms as a result of the Stipulation as there is no rate change being implemented in accordance with the Stipulation.
- H. Reporting.** The Company will provide monthly reports ("Monthly Activity Reports") to Board Staff and Rate Counsel on EE Program activity and estimated impacts for each calendar month from the Board's approval of the program through February 29, 2020, or such date as the Board approves for the end of the program. The Company will submit detailed data regarding the EE programs and expenses within thirty (30) days of the end of the calendar month covered by the report or consistent with the timing set by Board Staff. The Company will report, on a Quarterly basis: (i) the number of full-time equivalents that the Company hires to perform work associated with EE programs; (ii) the number of full-time equivalents that entities under contract with the Company hire to perform work with the EE programs; (iii) the number of EE program participants; (iv) quarterly and cumulative EE program expenditures and commitments along with the

originally projected expenditures in the Petition; and (v) quarterly and cumulative EE program energy savings (calculated based on actual participants and deemed savings) along with the originally projected savings in the Petition.

- I. **Home Energy Report Reporting.** Specific to the Home Energy Report program, the Company will continue to report on a quarterly basis: (i) projected and actual participation rates; (ii) nature of behavioral changes; (iii) baseline and actual energy savings; and (iv) all other metrics collected from the control group.
- J. **Assessment.** The Company will conduct a comprehensive assessment of this EE Program with the Board and Rate Counsel. This assessment will be completed by August 2019. This assessment will include, but not be limited to, the following items:
 1. A Cost Benefit Analysis ("CBA"), reflective of actual costs, savings and customer participation. The CBAs shall be calculated in accordance with prevailing approved NJCEP protocols at the subprogram level and will include:
 - a. CBA ratios for the following tests:
 - (i) Participant Cost Test;
 - (ii) Program Administrator Cost Test;
 - (iii) Ratepayer Impact Measure Test;
 - (iv) Total Resource Cost Test; and
 - (v) Societal Cost Test.
 - b. Energy savings by fuel type;
 - c. Monetary savings; and
 - d. Environmental savings.
 2. Summary CBAs will also be provided at the program and portfolio level;
 3. The number of participants by sub program;
 4. The budgeted dollars per sub program;
 5. The actual dollars spent through June 2019 by type of expenditure:
 - a. Program expenditures; and
 - b. Administrative costs.
 6. The actual dollars committed through June 2019;
 7. The original annual savings projections provided in the Petition by sub program;
 8. The actual annual savings from program participants by sub program;
 7. Recap of recent policy determinations or NJCEP program changes that are relevant by sub program;
 8. Summary of insights and barriers identified to date for the subprograms;
 9. Summary of relevant insights regarding the potential for joint/aligned utility efforts by sub program, including potential timing for advancements in this area; and
 10. Description of how the program delivery and administrative mechanisms of those programs which are subsequently determined to be more appropriately delivered by NJCEP will be transitioned from ETG to NJCEP management.

ETG will provide this assessment to Staff and Rate Counsel once complete and discuss the results. The Company will endeavor to modify any future EE Program to comply with the recently approved State legislation L. 2018, c. 21, changes in the NJCEP, or policy decisions made by the Board since the date of Board approval of this stipulation, or based on program results. In addition, ETG commits to share market insights from all subprograms in its EE Program with the BPU and other stakeholders as the State begins

to address the legislative mandates for energy efficiency and renewable energy or as otherwise deemed appropriate by the Board.

Furthermore, to the extent feasible, in support of any future petition for an extension of the EE Programs, ETG will consider an evaluation, measurement & verification study to examine factors such as net-to-gross, free-ridership, spillover, and savings persistence.

- K. Transfer of Funds.** Based on market response, spending on the aggregate EE programs or any of the individual programs may be accelerated and completed sooner than the proposed period. To provide flexibility to changing market conditions and customer demand, the Parties agree that the Company may transfer EE program funds between its sub-program components to maximize energy savings subject to certain conditions. The Company shall file with the Board, with a copy to Board Staff and Rate Counsel, a description of its proposed transfer of funds, including the rationale for such transfer. The Company may implement the proposed transfer if no objections are received from Board Staff or Rate Counsel within thirty (30) days.

DISCUSSION AND FINDINGS

In the months before this filing was made, two (2) significant Clean Energy or Energy Efficiency policy shifts occurred. The Governor ordered the Board and several executive branch agencies to begin work on a new Energy Master Plan ("EMP") that would contain several significant changes to former State energy policy as identified in the 2011 New Jersey EMP and 2015 Update to that EMP.¹² At the same time, P.L. 2018 c. 17 ("Clean Energy Act") was signed into law. The Clean Energy Act contains several provisions addressing energy efficiency, including provisions specific to the role of energy utilities. The Board has and will continue to maintain a central role in the implementation of these changes to existing law and policy; its energy and clean energy policies will be profoundly impacted. While these changes are pending, a cautious and incremental approach to the introduction of new utility-run programs best supports the transitions under way.

The Stipulation provides for continuing several successful EE programs for a period of one year.

As the above discussion indicates, much has changed since the Board initially approved ETG's Energy Efficiency Program in the August 2009 Order. The Board's commitment to the principles stated in the August Order, however, has not changed. Energy efficiency investments, if properly implemented, serve to help the State meet its environmental goals, serve the need to provide jobs in the short term, and enhance the State's competitiveness, business climate, and economic prospects in the long term. ETG has been able to build on its relationships with customers to help those customers improve the energy efficiency of existing residential and commercial buildings, and, by proposing the extension of the Energy Efficiency Program, the Company shows that it is committed to continuing that effort. The Board **FINDS** that ETG's Energy Efficiency Program has assisted in achieving the State's energy efficiency goals.

While the Board remains committed to the principles stated in the August 2009 Order, it is equally committed to achieving the State's goals in a cost effective and efficient manner. Staff and Rate Counsel thoroughly reviewed and analyzed the financial documentation provided by the Company. Based on that review and analysis, and on other information provided by ETG, Staff and Rate Counsel have executed the Stipulation as being in the public interest. The Board

¹² Executive Order 29 (May 23, 2018).

has carefully reviewed the petition submitted by the Company and the Stipulation signed by the Parties. There will be no immediate change to the EE rate or impact on customer bills as a result of the Stipulation. Pursuant to Board-approved Rider G, ETG shall submit annual filings for changes to the EE rate.

The Board, having carefully reviewed the Stipulation, **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY APPROVES** the attached Stipulation in its entirety, and **HEREBY INCORPORATES** its terms and conditions as though fully stated herein.

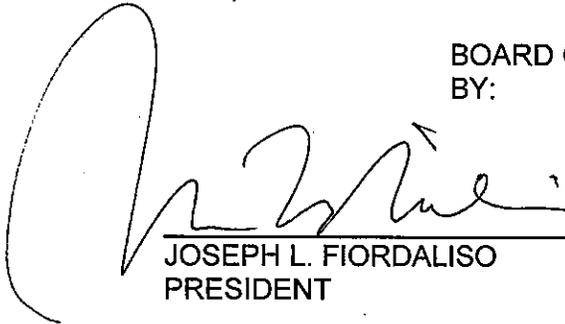
The Board **HEREBY RATIFIES** the decisions made by Commissioner Solomon during the pendency of this proceeding for the reasons stated in their decisions and Orders.

The Company's rates and costs, including EE Program costs, remain subject to audit. This Decision and Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of such audit.

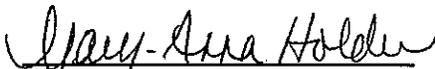
The effective date of this Order is March 9, 2019.

DATED: 2/27/19

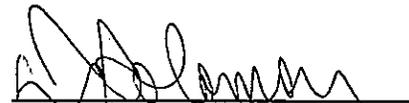
BOARD OF PUBLIC UTILITIES
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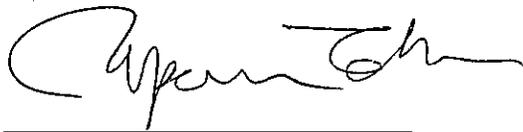
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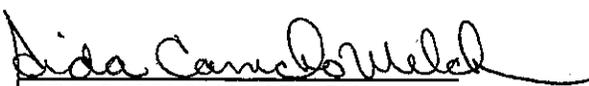
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UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Authority to Extend the Term of Energy Efficiency Programs with Certain Modifications and Approval of Associated Cost Recovery Mechanism

Docket No. GO18070682

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