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April 10, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our companies as well as the over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, along with the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. We are fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states," While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

    a) Home Performance with ENERGY STAR.

    b) WARMAdvantage.

    c) COOLAdvantage.

    d) Pay-for-Performance.

    e) Direct Install.

    f) SmartStart.

    We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

    NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

    a) Accessibility to all programs to all contractors in all territories.

    b) Incentive offerings must be indistinguishable across utilities.

    c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

    d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

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    f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

    g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

    h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

b) Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

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3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

a) Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration……., it is critical that the program designs, including eligibility and evaluation requirements, ***are consistent*** across the state. ***Offering the same*** core programs across the state will streamline program offerings for specific market sectors, ensure effective marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

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We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Fred Hutchinson

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We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Brian Riggs

Brian Riggs
NJACCA Executive Director

Joseph F. Accardo Jr.
Vice President – Regulatory &
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April 13, 2020

VIA ELECTRONIC MAIL (EnergyEfficiency@bpu.nj.gov)
Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 S. Clinton Ave., 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: March 20, 2020 Energy Efficiency Transition Straw Proposal

Dear Secretary Camacho-Welch:

Please accept these comments on behalf of Public Service Electric and Gas Company ("PSE&G" or the "Company") in response to the March 20, 2020 Energy Efficiency Transition Straw Proposal issued by Staff of the New Jersey Board of Public Utilities ("Board" or "BPU"). We appreciate in particular Staff's commitment to releasing the Energy Efficiency Transition Straw Proposal on March 20, 2020, in the midst of an unprecedented public health crisis.

In sum, PSE&G has significant concerns that the Straw Proposal is misaligned with the goals of the Clean Energy Act (CEA), most notably by discouraging investment in energy efficiency, directly conflicting with the CEA's purpose. Before addressing key features of the program implementation and cost recovery, we first highlight below the immediate, significant benefits to the economy that could be achieved by moving forward with energy efficiency programs as soon as possible.

Benefits Of Energy Efficiency To The New Jersey Economy

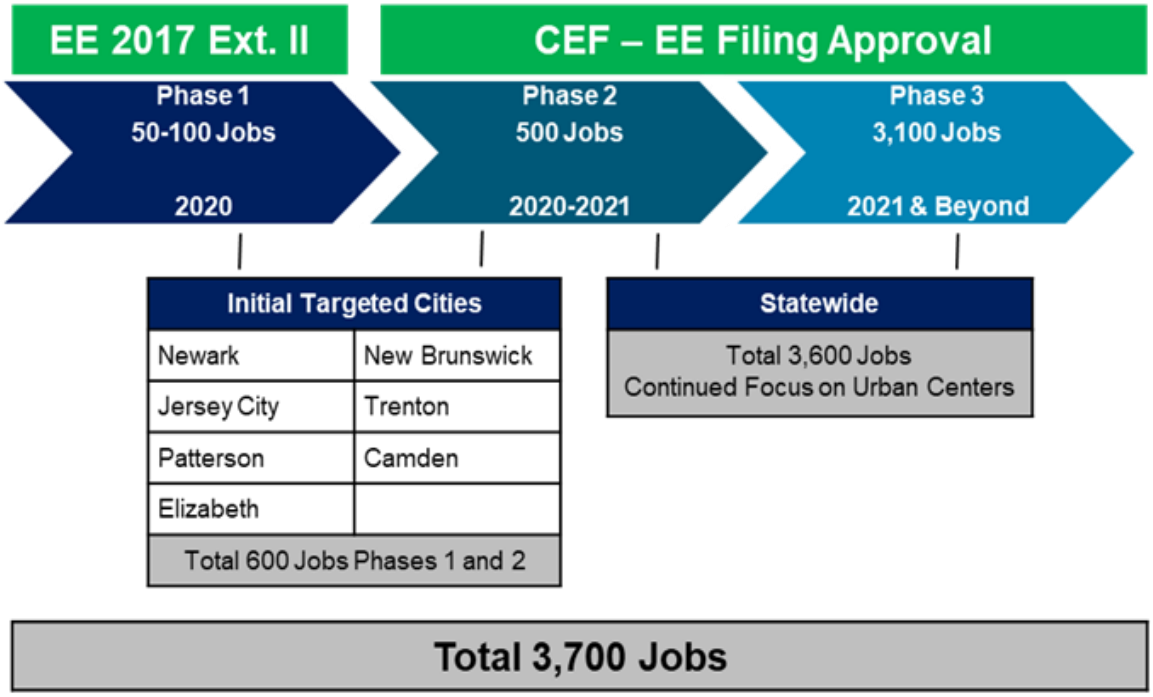
In the current circumstances, with the economic hardship and unprecedented job losses caused by the COVID-19 pandemic, perhaps the most important feature of energy efficiency is that it will lower energy bills and help grow the "green economy" right here in New Jersey. Unfortunately, there is relatively recent history of economic downturn in New Jersey that similarly drove the need to grow our economy. During the financial crisis of 2008-2009, in an effort to stimulate the economy, Governor Corzine implemented the New Jersey Economic Assistance and Recovery Plan, calling for an aggressive, statewide $500 million electric and gas utility energy efficiency program that, together with the BPU's Clean Energy Program, would invest approximately $1 billion in clean energy programs for residential and business customers throughout New Jersey. Consistent with the Governor's Plan, in July 2009 the Board approved PSE&G's proposed Energy Efficiency Economic Stimulus Program, in its entirety, authorizing $190 million in investment, and finding that the Program would "serve the need to create jobs in the short term, the State's environmental needs, and the need to enhance the State's competitiveness, business climate, and economic prospects in the long term." Our State and our nation now face a potentially larger economic crisis and, even more than in 2009, energy efficiency investment presents a well-developed economic opportunity.

PSE&G's pending Clean Energy Future-Energy Efficiency ("CEF-EE") program, if approved as filed, would create over 3,700 direct, clean tech jobs in PSE&G's territory, and an additional 1,300 indirect jobs. Importantly, these jobs provide higher median hourly wages and greater union representation compared to jobs held by the U.S. workforce as a whole.

PSE&G's proposed CEF-EE program will generate economic opportunities for unemployed, under-employed, and low/middle-income New Jersey residents, with a strong focus on advancing economic development in our major urban centers (Figure 1). These energy efficiency opportunities result in skilled jobs that require training, and we are prepared to deliver. PSE&G has partnered with the New Jersey Department of Labor ("NJDOL") and our energy efficiency suppliers to train and employ New Jersey residents to support the launch and delivery of its CEF-EE program. Approving the CEF-EE program as soon as possible following completion of the Board's EE stakeholder process would be a timely way to deliver the much needed economic stimulus to New Jersey's particularly hard hit communities.

During the start of the program (Phases 1 and 2), PSE&G commits to training and finding employment for 600 residents of Newark, Jersey City, Paterson, Elizabeth, New Brunswick, Trenton, and Camden. Under our current EE program (EE 2017 Ext. II approved in March 2020), training and supplier hiring is already taking place that will create the first 50-100 jobs (Phase 1); then, following CEF-EE approval, the full program will continue and expand significantly to 3,600 additional jobs (Phases 2 and 3). Additionally, our current EE suppliers' contracts are being amended to require an increase in Minority, Women, and Veteran-owned Business Enterprise participation, and to concentrate hiring efforts in the targeted urban centers mentioned above.

Figure 1: Clean Energy Job Training Program



PSE&G's CEF job training program recruitment activities will be supported by the partnership we've established with NJDOL's 22 One Stop Centers and with the Newark Alliance. Training facilities

will also leverage a network of partners, including community organizations such as Isles and the Urban League of Essex County, various county community colleges and vocational institutions, EE vendor facilities, and PSE&G's own training centers. Finally, initial training curriculums have already been developed for the four EE positions with the highest demand among our vendors (Energy Auditor, Insulator, Air Sealer, and Energy Efficiency Helper) and we will launch pilot training programs in May (pending the pandemic), in North Jersey and South Jersey for the Air Sealer and Energy Auditor positions. Upon full CEF-EE program approval, we will further work with our EE suppliers to standardize job titles, job descriptions, and required certifications across the industry, and further develop training curricula to support new job growth.

The March 20, 2020 Straw Proposal Does Not Achieve The Goals Of The Clean Energy Act And Will Hinder Job Creation.

Simply put, the Straw Proposal does not support jobs at this important time. PSE&G remains hopeful that the Straw Proposal is just that – a draft that will be revised to provide the support for the important initiatives under the Clean Energy Act. The following describes what PSE&G believes needs to be revisited to support utility investment in energy efficiency, quickly and effectively.

1. Cost Recovery

A. Utilities Should Be Permitted To Earn Their Base ROE To Achieve The Goals Of The Clean Energy Act; The Proposed 100 Basis Point Reduction, Even For Utilities Achieving 100% Of The Program's EE Requirements, Is Impermissible Under The Clean Energy Act.

The proposal to reduce the Return on Equity ("ROE") on energy efficiency investments by 100 basis points is outside the scope of the Board's authority under the CEA, and subject to interlocutory appeal in the event the Board adopts an ROE reduction. It is also arbitrary, punitive, and inconsistent with legislative and executive intent to incent EE investment. Further, it is unprecedented in the United States. These comments will address: (i) why the proposal is not authorized under the CEA; (ii) why the proposal is contrary to the intent of the CEA; and (iii) the flaws in the draft proposal's arguments for an ROE reduction.

(i) *An ROE Reduction For Achieving -- And Exceeding -- Established Performance Goals Is Outside The Board's Authority Under The CEA, And Is Subject To Reversal On Appeal.*

The CEA, as well as the "EE ratemaking" sections of the RGGI statute that are referenced and incorporated into the CEA, clearly permit a full return on EE investment.[1] The proposed 100 basis point reduction, **even for utilities achieving 100% of the program's EE requirements**, is impermissible under the CEA.

The key statutory provisions are clear. Under N.J.S.A. 48:3-87.9e.(1), the CEA requires that utilities file annual petitions "for cost recovery of the [required EE] programs . . . pursuant to [N.J.S.A. 48:3-98.1]." That same section of the CEA provides for utility recovery of "all reasonable and prudent costs incurred as a result of energy efficiency programs . . . required [by the CEA], including but not limited to recovery of and on capital investment," as well as lost revenues. Turning to the cross-referenced provisions of section 98.1, under which the utilities have been recovering their full ROE for EE investments for more than a decade, utility energy efficiency programs "may be eligible for rate treatment approved by the board, including a return on equity," and the BPU "shall allow the recovery of program

[1] See section 13 of P.L. 2007, c. 340 (C.48:3-98.1) (the "RGGI Statute" or "section 98.1").

costs" associated with utility energy efficiency programs, with "program costs" defined to include "a full return on invested capital," as well as lost revenues.[2]

Against this "full return" backdrop, the proposed ROE penalty for all but extraordinary performance has no basis in the record of this proceeding, and is arbitrary. Moreover, the CEA expressly provides that "[i]f [a] utility **fails to achieve** the reductions in its performance target established in the quantitative performance indicators, the public utility shall be assessed a penalty."[3] An ROE penalty for any performance below 150% of the Quantifiable Performance Indicators ("QPI") is not permissible.

(ii) *An ROE Reduction Conflicts With The Intent Of The CEA.*

An ROE reduction, if adopted, not only would conflict with the letter of the CEA, but also would contradict its intent. As noted, the CEA states that a utility shall file for "recovery of and on capital investment, and the revenue impact of sales losses…pursuant to" section 98.1. The intent of the legislation is to hold utilities harmless for the EE investment the CEA requires. The current proposal does the opposite. The combination of lost revenues from State-Managed programs and the 100 basis point ROE reduction will reduce a utility's return on EE investment below the allowed return from its last rate case.

(iii) *The Arguments Supporting An ROE Reduction Have Been Limited And Vague, And Are Flawed In Any Case.*

Through this proceeding, there have been very few arguments put forward to suggest any rationale in support of an ROE reduction. That is telling. In any case, the bases for those stated justifications are flawed.

(a) <u>ROE Should Be Evaluated Only In Base Rate Case Proceedings.</u>

A utility ROE is often one of the most contentious issues decided in a base rate case. In a base rate case, ROE experts run cost of equity models that look at the utility and "proxy," or comparable, companies and evaluate all aspects influencing a utility's stock price, including the fact that the proxy companies often have long-standing contemporaneous and accelerated recovery mechanisms in place. If the parties are able to reach a settlement, a negotiated ROE is established. It is inappropriate to force a utility to make presumably favored investments at a return lower than it negotiated in a full base rate case, particularly with no conceptual support for the reduction and no empirical support for the amount. As has been the case in New Jersey for many years, there should be one ROE for the utility, and it should be established in a base rate case considering all aspects impacting the calculation at that time, including contemporaneous recovery mechanisms. Changing that approach now - - to discourage one type of investment - - should not be permitted.

(b) <u>EE Investments Are Not Less Risky Than Traditional Utility Assets, And There Is No Justification To Reduce The ROE For EE Investments.</u>

An investment in a traditional asset such as a main or substation will not reduce a utility's sales. Investment in energy efficiency, conversely, will reduce utility sales and the utility's return on investment without lost revenue recovery. Therefore, recovery of lost revenues from EE investment is not an additional benefit compared to traditional assets. Rather, it simply aims to make EE investments as attractive as traditional investments.

The Straw Proposal's argument that there is less project execution risk for EE investment is

[2] N.J.S.A. 48:3-98.1(a)(3), (b) and (d).

[3] N.J.S.A. 48:3-87.9e.(3) (emphasis added).

inaccurate and unsupported. The majority of utility EE investment, on a dollar and savings basis, is in commercial and industrial programs, which can have long lead times often exceeding a year. Further, unlike traditional investments, energy efficiency investment is based on customer response, and successful execution is therefore less in the utility's control than it is for traditional investments. That is important given that the utility will now have aggressive targets and risk of penalties for not achieving those targets, and there is no track record of achieving the targets set in the CEA, let alone in the Straw Proposal. Finally, EE is the **only** program with a specific penalty/incentive structure (currently proposed to be asymmetrically weighted in favor of penalties), which speaks to the higher risk of these investments compared to others with no penalty structure. With regard to prudency risk, energy efficiency investments are subject to annual, focused review as opposed to traditional investments, which are reviewed in larger increments of significant investment over multiple years, in a base rate case involving a review of the utility's entire business.

(c) An ROE Reduction Is Contrary To New Jersey Practice And Precedent, And Would Be Inconsistent With Other States' Policies And Practices.

The recovery of investment on a contemporaneous or near-contemporaneous basis at full base case return on investment on energy efficiency, as well as renewable energy, has been the practice in New Jersey for over ten years under N.J.S.A. 48:3-98.1. New Jersey has also acknowledged accelerated cost recovery without an ROE reduction, recently under the Board-approved Infrastructure Investment Program regulations.[4] It remains inexplicable why a 100 basis point reduction for contemporaneous recovery is being proposed now, while the State is committing to aggressive energy efficiency goals.

The proposal suggests that Maryland and Washington D.C. employ mechanisms similar to the 100 basis point reduction for contemporaneous recovery in the Straw Proposal. The study in support of this claim, however, has nothing to do with "reduced risk" for EE investment, and instead evaluated the impact of decoupling mechanisms on allowed ROE. It is further important to note that in one of those jurisdictions, the reduction **no longer exists**.

New Jersey should seek to level the playing field across investments, not make EE the **worst** investment choice. For energy efficiency programs to be successful, the ROE reduction must be eliminated.

(B) Utility Program Costs Should Be Amortized Over the Useful Lives of the Energy Efficiency Measures.

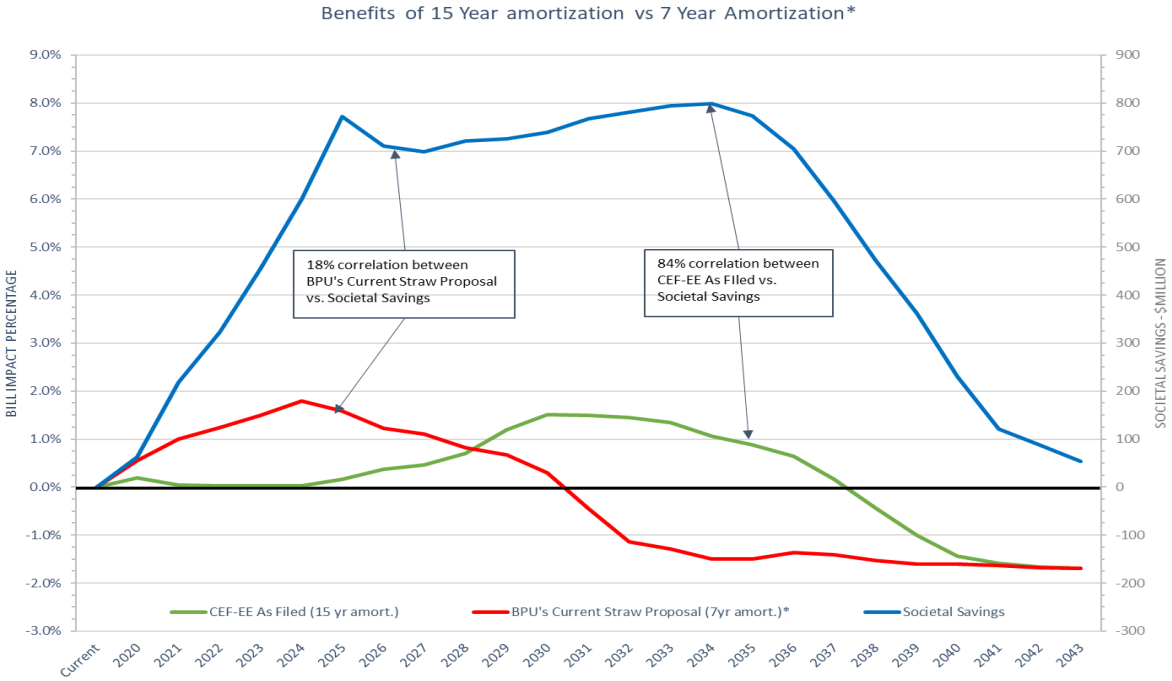
PSE&G agrees with the proposal to amortize non-O&M expenses and the rationale that "this treatment is necessary as it reduces potential rate shock associated with energy efficiency transition programs and spreads the cost of measures over a period of time to better match program costs with program benefits." PSE&G strongly disagrees, however, with the arbitrary and unnecessarily short 7-year period recommended. Consistent with the very rationale for utilizing amortization, the amortization period should be based on the **weighted average useful life of the investments**. That time period will vary based on each utility's specific program, and can be decided by the Board when reviewing those specific programs, rather than establishing a state-wide arbitrary period for every utility regardless of the mix of investments in that utility's program. It would be inappropriate – particularly at this difficult time – to ask customers to "frontload" more payment than is necessary to support the energy efficiency efforts required under the CEA by artificially shortening the time to pay for those investments. Well-settled ratemaking principles, as well as fundamental customer fairness, dictate that the cost of energy efficiency measures – like other utility investment costs -- should be recovered over the expected life of those

[4] N.J.A.C. 14:3-2A.

measures, matching the benefits and costs of those measures as closely as possible and avoiding intergenerational inequity.

As shown in Figure 2 below, the Company's CEF-EE filed proposal, which amortizes EE investments over the average life of the measures, better matches costs and benefits than the 7-year amortization contained in the straw proposal. In PSE&G's filing, there is a range of useful lives of the proposed EE measures – from 3 to 30 years – with a weighted average useful life of 15 years, which is what PSE&G is proposing as the amortization period for the specific programs in the CEF-EE filing. The amortization periods for other utilities' programs could be different, based on the mix of their proposed investments and the resulting weighted average useful life. In addition, the current Straw Proposal, with 7-year amortization for utility run programs and no amortization for Co-Managed and State-Managed programs causes higher rates in the initial years of the program while also causing a mismatch between the cost to customers and when the customer and societal benefits are realized.

Figure 2: CEF–EE as Filed vs. BPU's Current Straw Proposal



*Under the BPU's Current Straw Proposal Co-Mangesd programs are expnsed annualy via the SBC and ulitliy run programs are amortized over 7 years. The impacts of certain State and Co-Managed initiatives are not included e.g. Energy Codes and Standards Initiatives, Workforce Development, Community Energy Planning Grants.

C. <u>The Cost Recovery Mechanism Must Address Recovery Of All Lost Revenues Associated With The Clean Energy Act.</u>

Given their volumetric rate structure to recover fixed costs, utilities' revenues and associated margins will decline if sales are reduced in the manner that the CEA requires. Not permitting utilities to recover those lost sales revenues would be unjust and unreasonable, and would contravene the express terms of the Clean Energy Act, which specifically authorizes utility recovery for, among other things, "the revenue impact of sales losses resulting from implementation of . . . energy efficiency." Section 13 of the RGGI Act also permits "rate mechanisms that decouple utility revenue from sales of electricity and gas" and states that the Board "shall allow the recovery of program costs," with "program costs" defined to include "foregone electric and gas distribution fixed cost contributions associated with the implementation of the energy efficiency [program]."

(i) *A Full Decoupling Mechanism Is The Best Approach To Addressing Lost Revenue.*

To ensure lost revenue recovery in the manner best designed to protect customers and incent energy efficiency investment, PSE&G recommended in its CEF-EE filing that the Board employ a decoupling mechanism such as the Green Enabling Mechanism ("GEM"). The GEM decoupling mechanism, unlike the proposed lost revenue adjustment mechanism ("LRAM"):

- removes the utility's disincentive to promote energy efficiency in all forms, including State-Managed programs, Co-Managed programs, and activities whose impacts are not easily measured, and to promote distributed energy, which allows utilities to be more innovative; without decoupling, these disincentives still exist irrespective of the CEA's mandates to reduce energy usage and associated program cost recovery and incentives/penalties;
- allows for separate rate adjustments by customer class, which ensures that no customer class is subsidized by another;
- provides customer protections such as caps on rate impacts and an earnings test;
- provides a method to return revenue increases to customers, which can occur, for example, due to weather impacts or increased electrification; and
- is administratively simple for all stakeholders, because it is agnostic as to the drivers of lost revenue, and simply adjusts revenues per customer to levels agreed upon with regulators and other stakeholders, rather than requiring a controversial, theoretical estimate of the amount of lost revenue attributable to utility programs.

(ii) *The Conservation Incentive Program Can Be Adapted To Electric Utilities As Well.*

While the Company has consistently recommended a decoupling mechanism like the GEM, it also has been consistent in its position that the GEM -- while well-designed and aligned with the goals of the CEA -- is not necessarily the only appropriate way to address lost revenue from energy efficiency. Some stakeholders have suggested that the existing Conservation Incentive Program ("CIP"), which has worked effectively for New Jersey Natural Gas ("NJNG") and South Jersey Gas ("SJG") for over ten years, can be an appropriate mechanism to address lost revenue. PSE&G agrees that the core structure of the CIP -- without any automatic ROE reduction of the type contemplated in the Straw Proposal -- can be adapted to electric utilities. By eliminating throughput incentive and thus removing the utility's disincentive to invest in energy efficiency, the CIP would promote the culture change for electric that it does for gas (*i.e.*, fully incentivizing efficiency and conservation measures).

The general design of the CIP lends itself to achieving the goals of the CEA. Specifically:

- The CIP is simple, transparent, and easy to calculate. It calculates a monthly deferral for the difference between the use per customer determined in the utility's last rate case and the actual use per customer, and any over or under collection is recovered or refunded in an annual filing the following year.
- There are separate rate adjustments by customer class, which ensures that no customer class is subsidized by another.
- It provides customer protections such as caps on rate impacts and an earnings test.
- The CIP removes the utility's disincentive to promote State-Managed energy efficiency programs and distributed energy projects.

We also note three aspects of the CIP that should be modified to adapt its application to electric utilities:

- Customer Classification: Like the GEM, the CIP for electric should exclude large commercial customers (those served at a primary voltage or higher), as their usage can vary significantly and the CIP deferral could lead to excessive discrepancies in participating versus non-participating customers' bills.
- Supply Cost Test: NJNG and SJG have a "supply cost test" that must be met to recover lost revenues under the CIP clause. This test is not applicable to electric distribution companies (due to BGS auction process) and the other gas distribution companies that do not manage their capacity portfolios. Alternatively, a "Societal Cost Test" could limit lost revenue recovery to the extent the recovery is still cost beneficial under the Board's primary cost-effectiveness test. Until the Board finalizes its primary cost-effectiveness test, the Societal Cost Test should be utilized, as it is the only existing cost test that incorporates environmental benefits as required by the CEA.
- Shareholder Contribution: We also note that the current CIP has annual shareholder contributions toward energy efficiency programs that were negotiated separately with NJNG and SJG at the time each of their respective CIPs was approved. The current environment is different, with utilities now required to invest in EE and the CEA ensuring that utilities are made whole for those investments. That said, there are alternatives to a shareholder contribution that could result in the same or even more "skin in the game" for shareholders, but in a way that is based upon energy efficiency performance. Specific alternatives to the shareholder contribution should be considered within each utility's energy efficiency proceeding.

D. The Incentive And Penalty Structure Should Be Simple, Scalable, Symmetrical, Capped, And Recovered Over Time.

PSE&G supports the use of performance incentives and penalties to promote State policy goals and reach the targets outlined in the Clean Energy Act. Performance should be determined based on the results of the QPIs, which should contain the following elements:

- Simple and Transparent Mechanism: The mechanism must be as simple as possible, to translate performance on QPIs into incentives and penalties.
- Dead Band: The Straw Proposal allows for an incentive cap of up to 100 basis points for performance at 150% of targets and a penalty floor at the utility's cost of debt, which can be more than a 550 basis point reduction. PSE&G does not agree with the size of the penalty, which is disproportionately high compared to the incentive. There should be a deadband in which both the incentive and penalty scale linearly from the deadband to 150% / 50% of performance for a maximum incentive and penalty of 50 basis points.
- Cap and Floor: The existence of a cap and floor serves to limit exposure of both customers and utilities in the event of significant under- or over-performance.
- Linear Scaling: The incentives and penalties should scale linearly between the floor and the dead band, as well as between the dead band and the cap.
- Recovery Over Time: Similar to amortization of program costs, this approach aligns the incentive or penalty with the time over which customers receive the benefit from EE

investment. It also will minimize the rate volatility that could flow from awarding the entire incentive or imposing the entire penalty in a single year.

Additionally, PSE&G opposes the proposed additional penalty of 0.75% of distribution revenue for performance below 50%, because it effectively would reduce distribution ROE and is inconsistent with the clear language of the CEA. Specifically, N.J.S.A. 48:3-87.9e.(3)(e)(3) states: "[t]he adjustments made pursuant to this subsection may be made through adjustments of the electric public utility's or gas public utility's return on equity **related to the energy efficiency or peak demand reduction programs only**." (emphasis added)

E. There Should Be No Rate Cap On Energy Efficiency Investment Cost Recovery, And Over/Under Interest Should Be At Commercial Paper Rate.

The Company supports the proposal to not implement a rate cap on energy efficiency investments. While the Company does not oppose over/under interest at two-year Treasury rates plus 60 basis points, the commercial paper rate as currently used on over/under-recoveries for Green Program recovery reflects current short term debt cost and thus is more appropriate.

2. Program Administration

A. Appropriate Program Budget Projections Should Be Established.

Cost efficiency is an important measure of an energy efficiency portfolio. PSE&G continually strives to be a top-performing utility across all of its operations. PSE&G's performance in the energy efficiency area has been notable, as evidenced by 14 awards in energy efficiency since 2012 for Hospital and Multi-Family programs. Given the CEA's targets, the State and PSE&G have the opportunity to become national leaders in energy efficiency.

PSE&G supports appropriate, agreed-upon targets both during transition and in steady state, and believes that the utilities and the Board should determine the appropriate targets. Importantly, ACEEE has found that:

> Some EERS [Energy Efficiency Resource Standards] policies contain cost caps that limit spending, thereby reducing the policy's effectiveness. . . . Most of the states with these policies in place have found themselves constrained. As a result, regulators have approved lower energy savings targets. In these cases, we score states on the lower savings targets approved by regulators that take the cost cap into account, rather than on the higher legislative targets.[5]

This information and the supporting data for Appendix E have not been published, so it is difficult to opine on the validity of the information. PSE&G suggests that the utilities work with the BPU to properly analyze the inputs and collectively determine the appropriate program budgets.

B. The Core Utility Programs Should Be Restructured Based On Leading Mass Market Energy Efficiency Programs Across The Country.

The March 20th Straw Proposal includes eight core utility programs, based on transitioning nine existing NJCEP programs to the utilities. Consolidating these programs will reduce administrative burdens, streamline program delivery, improve savings opportunities, and improve the customer

[5] https://www.aceee.org/research-report/u1908 at pg 42.

experience and consistency across programs. The seven electric and gas utilities in New Jersey jointly recommend a structure with five core utility programs, serving the same markets:

- Efficient Products: Rebates for HVAC, products, marketplace, and more rebates for energy efficient equipment
- Existing Homes: Whole building comprehensive residential projects including home energy audits
- Prescriptive: Rebates for commercial HVAC, lighting, motors & drives, refrigeration, food service equipment, and more
- Custom: Custom incentives for large energy efficiency projects
- Direct Install: Projects for lighting, controls, refrigeration, heating and air conditioning updates, and more for small business

A critical component of this structure is integrating all residential rebate programs under a single program, to be implemented by each of the utilities in the state, consistent with benchmarking of leading programs across the country. Under the Straw Proposal, in contrast, residential customers would be receiving rebates through three distinct program administration structures, fracturing and degrading the customer experience. These three administrative structures and their respective programs include:

- State-Managed: Retail Products
- Co-Managed: Marketplace, Appliance Recycling, Low-Income (Comfort Partners)
- Utility-Managed: WARMAdvantage, COOLAdvantage

The benefits of a consolidated program include ensuring consistency for customers across programs, eliminating multiple points-of-touch, providing better, faster customer service, partnering with local retailers, and integrating with Demand Response into energy efficiency offerings.

Cost effectiveness further supports moving away from State administration of these programs. The most recent independent evaluation report of the Office of Clean Energy ("OCE") programs, performed by Energy & Resource Solutions in 2016, found that the "NJCEP is generally less cost-effective than peer programs" and that "compared to other EE portfolios, New Jersey has a typical-sized budget but achieves fewer energy savings than most, resulting in a higher cost per energy unit saved than many other programs with very similar portfolios."[6]

Additionally, programs designed to serve the State's low-income customers should be managed individually by the utilities and integrated with the overall residential portfolio of energy efficiency programs. The Board recognized in the December 20, 2019 Program Administration Straw Proposal, including "knowledge of energy consumption, customer demographics, workforce infrastructure, and existing customer relationships within their service territories."[7] Given these advantages, the State's most vulnerable citizens should not be deprived access to the utility programs that are built on these advantages, by designating the primary low-income program, Comfort Partners to be a Co-Managed (*i.e.*, between utilities and the State) program. This would hamper equal access to energy efficiency in the State, contrary

[6] *See Process Evaluation Study prepared for the New Jersey Clean Energy Program*, January 2016, at pp. 42 and 95, accessible at: http://www.njcleanenergy.com/files/file/Library/NJCEP%20Process%20Evaluation%20Final%20Report%20and%20Memo%2002152017.pdf

[7] December 20th, 2019 Program Administration Straw Proposal, at pg 14.

to public policy and the overwhelming input from stakeholders. A strong QPI surrounding low-income customers will ensure that utilities are fully vested in maximizing the energy efficiency opportunities for this vulnerable customer population.

Co-Managed and State-Managed programs, on the other hand, have inherent inefficiency associated with administration and the funding of programs through the SBC related to state budget procedures.

For these reasons, PSE&G proposes: (1) that three residential programs currently designated to be Co-Managed or administered by the state be moved to the utility core programs, to be combined with the WARM Advantage and COOL Advantage programs as the comprehensive Efficient Products Program; and (2) that the utilities run the low-income program.

3. Target Setting

A. Targets Should Be Revised To Reflect The CEA Targets.

The annual savings targets recommended in the EE potential study are based on incomplete or inaccurate information and should not be used to establish annual savings targets. PSE&G recommends that the fifth year targets be set at the CEA values of 2% for electricity and 0.75% for natural gas, and that the first year targets be set at values which are representative of current performance, 0.35% for electricity, 0.29% for natural gas, and then ramp towards the 5th year CEA targets. The rationale for using the legislatively mandated targets, and not the more aggressive targets in the Straw Proposal, include the following:

- Lack of NJ-Specific Data: The consultant did not perform any New Jersey-specific primary research to inform their results, which is a best practice for EE potential studies. In fact, the proposal acknowledges that a more robust potential study should be performed over the initial program cycle.
- Workforce Constraints: Given the low level of performance over the past several years, there currently is a limited qualified workforce to deliver on an expanded portfolio of EE programs. PSE&G's Clean Energy Jobs Training Program will address this competency over time.
- Transition and Ramp Rates: The consultant did not consider the program transition during the first few years of the program. The first year targets represents a significant increase in performance, particularly for electric, with the target more than doubling, from 0.35% in the most recent year, to 0.75% in the first year of the new programs. This transition issue is compounded by the potential challenges in acquiring customers and building a workforce in the aftermath of the COVID-19 pandemic.

B. Consistent With The Clean Energy Act, Savings Performance Should Be Based On Gross Savings.

PSE&G does not agree that the savings QPIs should be net savings. The proper measurement should be gross savings, which is consistent with the language of the CEA, which states that the Board must "take into account the public utility's energy efficiency measures and other non-utility energy efficiency measures including measures to support . . . building code changes, appliance efficiency standards, the Clean Energy program, any other State-sponsored energy efficiency or peak reduction programs, and public utility energy efficiency programs . . . ."

4. Evaluation, Measurement, And Verification

The following modifications to the EM&V plan will establish a strong structure of measurement and accountability among all entities.

- Accountability: The Board must clearly state that the same EM&V standards, frequency, transparency of reporting, and vendor procurement rules applied to the utilities must also be followed by the OCE.
- Impact Studies: Impact studies should be undertaken on an annual basis in order to determine ex-post savings in a timely manner, particularly if the BPU is going to require ex-post savings to be the metric by which performance will be measured.
- Resource Value Framework ("RVF"): The Board should put off its investigation of a New Jersey specific benefit cost test aligned with the RVF. The SCT should be used as the primary benefit cost test for cost effectiveness in the first cycle.

Finally, regarding potential future study, PSE&G concurs with the suggestion that further research be undertaken within three-years to obtain New Jersey-specific information on the baseline of energy efficiency and the long-term achievable EE potential. We also strongly recommend that the utilities lead the study. The results will have a higher degree of confidence and represent the reasonably achievable targets, as called for under the CEA.

Very truly yours,

Joseph F. Accardo Jr.

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April 13, 2020

Ms. Ada Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Via e-mail to EnergyEfficiency@bpu.nj.gov

Subject: Energy Efficiency Transition – Full Straw Proposal

Dear Ms. Camacho-Welch:

Thank you for the opportunity to provide comments on New Jersey's Energy Efficiency Transition Full Straw Proposal. For over 30 years, VEIC has been a national leader in clean energy planning, program design, policy, research, and implementation. Driven by our mission to act with urgency to enhance the economic, environmental, and societal benefits of clean and efficient energy use for all people, we have hundreds of clients for whom we design and administer energy efficiency, clean energy, and clean transportation programs.

VEIC has deep experience in New Jersey in particular. VEIC provided consulting expertise to the utility collaborative from 2000-2003, and to a large-scale project on achieving the 2020 Energy Master Plan goals in 2009. From 2007 through February 2016, VEIC designed the New Jersey Clean Energy Program's (NJCEP) residential energy efficiency programs and implemented the renewable energy programs (as part of the residential Market Manager team). In that role, VEIC created the first generation of NJCEP programs, updated them to increase savings and cost-effectiveness, and facilitated the Leadership Team's activity, which focused on improving results and clarifying policy aims.

Although NJCEP has made significant accomplishments, New Jersey now has the opportunity to become a national leader in energy efficiency and achieve its 100% clean energy by 2050 goal. We strongly support New Jersey's plans to significantly ramp up energy efficiency and peak demand reduction programs, as articulated in the Transition Full Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs.

VEIC specifically supports the following aspects of the Transition Full Program Straw:

- **The delineation of responsibilities between utilities and the State for Core Programs in the energy efficiency and peak demand reduction portfolio.** We agree with Staff that the utilities are best positioned to deliver energy efficiency and peak demand reduction programs that rely heavily on utility customer relationships and utility data, while the State is best positioned to lead market transformation activities and those involving close coordination with state efforts (e.g., State buildings, codes and standards). The proposed allocation of core programs between utilities and the State is also consistent with best practices we have seen in other states and regions, including California, New York, and the Pacific Northwest.

- **The emphasis on statewide consistency for Core Programs and marketing efforts.** We agree with Staff that core program offerings should be consistent across utility service territories to ensure equitable access for customers and market actors. New Jersey utilities can learn from the successful structures and processes in states like Maryland and Massachusetts to support utility collaboration. We also agree that a single, statewide brand and coordinated marketing efforts between utilities and the State are key to driving customer engagement and participation.

- **The ability for utilities to experiment and learn through Additional Initiatives.** We agree that utilities should have the ability to develop initiatives to address specific opportunities and policy priorities in their service territories – and to pilot new approaches that have potential to scale up. We encourage utilities to actively share learnings to inform future program offerings.

- **The flexibility to make program adjustments.** Given how rapidly the energy market is changing, it is crucial that utilities have the ability to adapt quickly to avoid market disruption. We support the general, flexible approach laid out in the Transition Full Program Straw, which proposes to allow utilities to make some modifications to program design, with either notification to Board Staff, with approval of Board Staff, or with Board approval. The level of notification/approval properly depends on the amount of proposed change, and whether the changes are proposed within a sector, among sectors, or relating to incentives. We do note that, as proposed on page 27, there is a slight gap in the approval structure – for changes among sectors between 5 and 10%, it is unclear as to the requirement. Changes up to 5% require Staff approval, while changes exceeding 10% require Board approval.

- **The proposed program metrics.** VEIC supports the multifactor approach to program metrics, which aligns with best practice. The proposal strikes an appropriate balance between annual and lifetime savings, and between energy efficiency and peak demand reduction, which supports a comprehensive portfolio. The inclusion of metrics for utility net benefits and lifetime savings for low-income customers and small businesses further encourages development of a balanced portfolio that provides robust offerings for customer segments that are harder to reach.

While VEIC strongly supports the Transition Full Program Straw overall, we would like to highlight the following areas for additional consideration and potential inclusion as New Jersey scales up energy efficiency and peak reduction programs:

- **Statewide midstream program for products sold through wholesale distributors.** While Retail Products is identified as a Core Program for State administration, the Transition Full Program Straw does not include a midstream/upstream program for products and equipment sold via wholesale distributors. This is a growing program model that is rapidly scaling up in leading states such as Massachusetts and California. Midstream and upstream programs for distributed products, such as HVAC and commercial lighting equipment, transform the market by engaging the supply chain. Because distributors influence 90 percent of all equipment sales, understanding their business models and working with them in a consistent manner can deliver significant participation and energy savings. As with products sold through retail products, a statewide approach is better positioned establish relationships with distributors and manufacturers, who often work across utility service territories. A consistent, statewide program design is thus more likely to achieve the scale necessary to transform markets. In California, the Public Utilities Commission recognized this in its August 2016 guidance for the utility business plans relating to energy efficiency rolling portfolios. The order specified that "all upstream and midstream programs, as well as those with market transformation objectives, will be required to be administered by a lead statewide administrator."[1]

- **Research and development.** VEIC supports the Transition Full Program Straw's proposal to have the State administer R&D programs. However, additional detail is needed on the scope of the R&D program, the types of emerging technology investments it will support, and how the R&D program will coordinate with utility-led pilots and Additional Initiatives. Given the rapidly changing energy landscape, a robust, transparent, and collaborative process to efficiently vet and onboard new technologies and program models is critical to the success of energy efficiency and peak demand reduction programs. VEIC currently administers innovation and R&D portfolios for program administrators in Vermont and Wisconsin, and suggests looking to these and other leading states, such as California, for best practices to apply in New Jersey.

- **Building electrification and GHG reduction goals.** New Jersey's Global Warming Response Act establishes a 2050 goal to reduce carbon emissions statewide by 80 percent below 2006 levels, and the draft 2019 Energy Master Plan calls for transitioning existing buildings to electric appliances, prioritizing the electrification of existing oil- and propane-fueled buildings. Given the importance of building electrification through technologies such as air-source heat pumps and heat pump water heaters to achievement of the State's energy and greenhouse gas (GHG) reduction goals, it is

[1] California Public Utilities Commission. *Decision Providing Guidance for Initial Energy Efficiency Rolling Portfolio Business Plan Filings.* Decision 16-08-019 (August 18, 2016).

surprising that the Transition Full Program Straw does not specifically emphasize building electrification as part of the Core Program portfolio, either for utility or state administration. Presumably, heat pumps and heat pump water heaters will be incentivized as part of the WARMAdvantage and COOLAdvantage programs, but many states are also now ramping up fuel switching offerings that provide enhanced incentives and assistance for heat pump installations that displace the use of fossil fuels. For example, Massachusetts is now offering such "energy optimization" programs, New York has included heat pump programs in its enhanced utility offerings under New Efficiency: New York, and California is currently designing a statewide building decarbonization initiative. VEIC encourages deeper consideration of building electrification in New Jersey as a core component of the energy efficiency and peak demand reduction portfolio. If building electrification does become a core strategy in New Jersey, then we also suggest consideration of an additional program metric for the energy efficiency and peak demand reduction portfolio: GHG reduction. Energy efficiency programs in several states, including Hawaii, New York, and Vermont are currently in the process of adding such metrics, and the Sacramento Municipal Utility District (SMUD) recently adopted a carbon metric in place of a kWh reduction metric for all of its energy efficiency programs.

- **Stakeholder participation.** The Transition Full Program Straw provides some detail on the process and systems that will be used for ongoing stakeholder engagement and oversight of energy efficiency and peak demand reduction programs, through the Energy Efficiency Advisory Group (EEAG) as well as proposed additional advisory and working groups. VEIC supports robust, sustained funding for the EEAG so it can be meaningfully involved in planning and oversight of energy efficiency in New Jersey. Robust stakeholder engagement and oversight is critical to success in leading states where energy efficiency programs are delivered by investor-owned utilities. VEIC recommends reviewing the stakeholder advisory models in Massachusetts and Rhode Island to inform the approach in New Jersey. In Massachusetts, the Energy Efficiency Advisory Council (EEAC) provides robust oversight and guidance to the energy efficiency programs delivered by multiple utilities and program administrators. In Rhode Island, the Energy Efficiency Resource Management Council (EERMC) oversees the programs administered by the sole utility, National Grid. The EEAC and EERMC contribute to program planning at every stage and report annually to the regulatory commission and legislature on results. In Rhode Island, the EERMC has an annual budget of approximately $780,000, or 0.68 percent of total efficiency program spending.

We look forward to supporting New Jersey's efforts to advance the Clean Energy Act's laudable goals and scale up energy efficiency and peak demand reduction. Should you have any questions about our comments, please contact me at 802-540-7694 or elevin@veic.org.

With best wishes,

Emily Levin
Managing Consultant, Energy Programs

April 13, 2020

Via Email EnergyEfficiency@bpu.nj.gov

Aida Camacho-Welch, Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue 9th Floor
Trenton, NJ 08625-0350

RE: Energy Efficiency Transition – Full Straw Proposal

Dear Secretary Camacho-Welch:

The American Association of Blacks in Energy (AABE or Association) is the nation's premiere energy professional association representing the interests of African American leaders, businesses, and employees in the energy industry, in addition to the communities of color they serve. The Association consists of over 2000 members nation-wide, including 38 chapters covering 28 states and the District of Columbia. The Association's mission is to provide direct input into the deliberations and developments of energy policies, regulations, emerging technologies, and environmental issues, particularly as these issues impact African American and underserved communities.

The Association appreciates the opportunity to provide comment in response to the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs ("Straw Proposal" or "Proposal"). As a priority, AABE will limit its comments to the primary concerns of how the Proposal will impact communities of color. As such, Association comments will specifically address (I) the importance of energy efficiency in low-income communities, which include African American and communities of color; (II) energy efficiency employment and supply chain; and (III) program costs, utility incentives, and customer rates).

I. Energy Efficiency Programs Targeting Low-Income Communities Are Essential to Reducing Energy Burden for Low-Income Consumers.

AABE supports the New Jersey Board of Public Utilities ("Board" or "BPU")) and its focus on energy efficiency programs targeting low-income communities. However, we are concerned that programs are not sufficiently aggressive, are not adequately funded, and exclude families and individuals in greatest need.

In New Jersey, African Americans and Latinos equal over 35 percent of the state's poor at 18 percent and 17.5 percent respectively— and for African American and Latino children, the numbers are higher— at 25.5 percent, and 23 percent. Based on data from the U.S. Department of Energy, African Americans make-up nearly half of the one-third of American families having trouble paying their utility bills[1]— and African American and Latino households are among those paying more for utilities per square foot than the average household.[2] Additionally, according to the American Council for an Energy Efficient Economy (ACEEE), low-income households have an energy burden three times that of other families.[3] This is due to a number of factors, including but not limited to age of the home, region, access to available programs, and energy efficiency costs.

For many low-income communities, the shortcoming of energy efficiency is not in the number of ideas or programs— but instead access and affordability. Many families are unaware that the needed programs exist; do not have the ability to navigate program participation; cannot afford equipment and installations; or are unable to afford other needed home repairs necessary before energy efficiency remedies can be effectuated. Moreover, for those who are renters, they have little or no control over a landlord's willingness to make needed investments.

The Board should not underestimate the cost and lift required to achieve the stated objectives. Implementing energy efficiency universal access, and ensuring availability and participation of low-income consumers will require the Board, utilities, community stakeholders and others to successfully overcome hurdles that have existed for decades, if not more. This includes economic obstacles, social barriers, language, health and safety concerns, and unknown data.

For success and energy equity to be achieved, the Board will need to approve costs and investments three to four times that originally envisioned. In a recent Michigan study, researchers found that energy efficient lightbulbs were two times the cost in low-income neighborhoods when compared to more affluent communities— and "that for every dollar Michigan utilities invested on energy efficiency programs targeted at low-income consumers, they expended as much as $4.34 on programs for higher-income consumers."[4]

The Board's proposal appropriately anticipates the role of equity in New Jersey's energy strategy, and as noted, the Energy Master Plan (EMP) identifies equity as one of six state priorities.[5] However, notwithstanding the Board's proposal, energy efficiency equity will largely depend on available capital to saturate low-income communities with energy efficiency

[1] U.S. Energy Information Administration (2015), *Residential Energy Consumption Survey*.
[2] Drehobl, A. and Ross, L. (2016), Lifting the High Energy Burden in America's Largest Cities: How energy efficiency can improve low-income and underserved communities, ACEE, 4.
[3] *Id* at 3-4 (2016).
[4] Bagley, K, (May, 2019), Why Low-Income Households Need to Be Part of the Clean Energy Revolution, *Yale Environment 360*; *See* Reames, T. G., Reiner, R. A., Stacey M. B. (2018), An Incandescent Truth: Disparities in energy efficient lighting availability and prices in an urban U.S. county (vol. 218), Applied Energy.
[5] New Jersey Board of Public Utilities (2020), *Straw Proposal*, 29 (Priorities: affordability, equity, environmental justice, economic development, decarbonization, and public health).

solutions. Placing energy efficient lightbulbs in low-income communities, while having the ability to impact energy costs, is not equitable when compared to the value of energy efficient appliance rebates accessible by higher income communities. If we are to be successful in achieving universal access *and* equity, we must be willing to match invested capital dollar for dollar within identified communities, and in many cases spend more in lower-income households.

II. To Meet the Objectives of the Clean Energy Act (CEA), Energy Master Plan (EMP), and Relevant Executive Orders, New Jersey's Energy Efficiency Strategy Must Include Significant Investments in Employment and Supply Chain Opportunities Targeting Low-Income and Diverse Communities.

New Jersey's energy strategy creates a multiprong mandate that mitigates climate change, increases energy efficiency, and builds on existing jobs created by the energy economy. According to Joseph Fiordaliso, BPU President, the state's energy strategy "will create new long-term jobs and a framework for integrating sophisticated renewable energy technologies that move us toward our goal of realizing a cleaner, safer planet."[6]

Based on the 2020 US Energy and Employment Report (EER or Report), businesses in the energy efficiency space continued to produce more employment opportunities than any other sector in the industry, totaling over 2.3 million jobs, adding an additional 54,000 jobs in 2019.[7] The vast majority of these jobs are in construction (56 percent), with another 21 percent working in professional services. Other sectors within energy efficiency include manufacturing and wholesale trade; distribution; and transport.

When narrowing occupations to their specific work characteristics within the sector, the majority of jobs are in installation and repair at 31 percent, followed by administrative positions at 24 percent. Production/manufacturing jobs and Management are the next largest job types within occupations, with production/manufacturing equaling 17 percent, and management/professional only 15%. The remaining jobs are in sales or other positions.[8]

African Americans however make-up a decidedly small percentage of employees in the industry, at 8 percent. This number underperforms Whites— 77 percent; women— 25 percent; Hispanics— 15 percent; those over 55— 13 percent; and veterans, at 9 percent.[9] While the numbers for African Americans are unacceptably low, they provide New Jersey and the Board a

[6] State of New Jersey, Governor Phil Murphy (January 27, 2020), Governor Murphy unveils energy master plan and signs executive order directing sweeping regulatory reform to reduce emissions and adapt to climate change. Retrieved from https://www.nj.gov/governor/news/news/562020/approved/20200127a.shtml.
[7] 2020 U.S. Energy & Employment Report, National Association of State Energy Officials, and Energy Futures Initiative, 124.
[8] *Id*. at 140.
[9] *Id*. at 145.

unique opportunity to target underrepresented communities as part of an overall strategy to positively impact low-income communities.

For example, all energy efficiency employers cited difficulty finding needed employees— led by the construction industry, where 91 percent of employers stated that finding qualified individuals was difficult or very difficult. Of note, all sectors identified lack of training or technical skills as the primary reason for having difficulty filling needed positions.

According to ACEEE, "a trained local energy efficiency workforce simultaneously helps residents realize energy savings and benefit from new jobs."[10] Moreover, "energy efficiency jobs can be an opportunity to create employment for low-income communities and communities of color."[11]

However, to achieve success, utilities and the state will be required to invest substantial capital and resources, and utilities can and should be partners in the process. PSEG alone has promised to train and find employment in energy efficiency for 600 New Jersey residents, which is more than 25 percent of the total new energy efficiency jobs reported for the state in 2019. AABE commends PSEG for establishing the goal, and would urge all utilities to meet and triple these commitments. However, as ACEEE noted, absent the funding and necessary incentives, these goals may never materialize, regardless of the ambitious program aims.[12]

Diversity Supply Chain

Beyond incentives and funding needed for energy efficiency employment, additional capital investments are required to ensure growth and participation of minority suppliers. This added focus on minority small businesses and contractors is consistent with the Board's economic development mandate, and will ensure that traditionally disadvantaged businesses are part of New Jersey's green economy expansion.

Successful minority-owned business inclusion will require capital commitments— but also demonstrable inclusion policies. Generally, minority firms have difficulty accessing state contracting programs, and when contracts are awarded, studies have shown disparities in award value when comparing minority versus majority firms.[13] To avoid this outcome, and to ensure opportunities for full inclusion, the Board and utilities will have to enhance existing outreach efforts in diversity supply chain communities, and when possible incentivize inclusion of minority contractors.

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[10] Shoemaker, M., and Ribeiro, D (2018), Through the Local Government Lens: Developing the energy efficiency workforce, ACEE, iv.

[11] *Id*. at 1.

[12] *Id*. at 9 (As a general rule, investments across the country supporting energy efficiency or green jobs training are decreasing— and while many states have established aggressive program agendas, they do not have the capacity or resources to bring those programs to fruition).

[13] *Id*. at 21.

A well-executed diversity supply chain strategy will build capital strength within individual minority-owned businesses, create opportunities for these businesses to hire employees, and directly lift incomes within minority communities. This will be a direct result of a dedicated energy efficiency policy.

III. Appropriate Incentives and Cost Structures Must Be In Place to Achieve Compelling Outcomes in Energy Efficiency Adoption, Employment, and Minority Supply Chain Growth.

The Straw Proposal creates a hybrid program administration, splitting responsibilities between the Board and state investor owned utilities (IOU), with other duties co-managed between the two. "The administrative structure for energy efficiency and peak demand reduction program delivery plays a critical role in achieving energy savings and the energy policy goals set in the CEA."[14] Under the proposed construct, the determined IOU cost recovery model will dictate program outcomes, and if not appropriately structured, state efforts to achieve energy efficiency universal access, job creation, and expanded minority supply chain participation will be frustrated. The role of the utility is critical and central to energy efficiency program delivery.[15]

AABE Energy Efficiency Principles "encourage the utility industry to pursue revenue neutral, energy efficiency solutions as a sustainable business practice… [and] supports incentives for residential and commercial energy efficiency investments."[16] Moreover, as stated in the Association's recommendations to the 116th Congress, energy efficiency "policies and strategies should be comprehensive, and encompass whether an application negatively affects low and moderate income communities, and creates disadvantages that are greater than energy efficiency gains."[17]

AABE agrees with the Board's approach to provide performance incentives and to allow utilities a return on their investments "assuming IOUs meet performance targets."[18] However, limits on the ability of utilities to recover expended capital pursuant to program objectives would negatively impact low and moderate-income communities, and create disadvantages "greater than energy efficiency gains."[19]

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[14] New Jersey Board of Public Utilities (2020), *Straw Proposal*, 9.
[15] *Id*.
[16] American Association of Blacks in Energy, Energy Efficiency Principle. Retrieved from, https://www.aabe.org/docs/pages/1046/file/AABE%20Energy%20Efficiency%20Principles%20FINAL%2011_21.pdf.
[17] American Association of Blacks in Energy, Policy Recommendations for the 116th Congress—Opportunities for Energy's Future, Supporting Connections to Communities of Color.
[18] New Jersey Board of Public Utilities (2020), *Straw Proposal*, 10.
[19] American Association of Blacks in Energy, Energy Efficiency Principle. Retrieved from, https://www.aabe.org/docs/pages/1046/file/AABE%20Energy%20Efficiency%20Principles%20FINAL%2011_21.pdf.

For example, the Board's 100 basis points reduction on IOU return on equity disincentivizes successful investments in universal access, employment, and minority businesses. Additionally, the Board further disincentivizes program investments by reducing amortization from fifteen years to seven. According to the Board, "energy efficiency programs are… less risky than traditional infrastructure investment[s]; …are not subject to the same project execution risks; [and] will not undergo several years of construction with the associated regulatory lag."[20]

Because investment recovery is limited, utilities will be disincentivized from exceeding program goals, and may have difficulty achieving low-income targets, including needed investments in employment, training, and minority contracting. Moreover, because of shortened amortization periods, cost recovery will occur over a shorter timeframe, resulting in higher utility costs and additional energy burdens on rate payers.

In practice, the Board's actions could also devalue IOU securities— including credit ratings, negatively impacting utility access to capital markets. Should investors discover that New Jersey utilities are unnecessarily restrained in energy efficiency cost recovery, shareholders may conclude IOUs too risky, absent the ability to gain value over time. This would achieve the result of higher capital cost and destabilization, at a time when utilities are being asked to invest capital in infrastructure mandated programs.

Already, as a result of the COVID-19 pandemic, utilities are anticipating downward capital pressures. In addition to loss revenue from payment suspensions and shut-off moratoriums, utilities are also experiencing issues accessing short-term funding, with capital costs doubling or tripling historical averages.[21] This is important to AABE, because as the cost of capital increases, rates will likely follow. Moreover, the greater the capital costs for utilities— particularly for energy efficiency universal access, employment, and minority contracting— the less we should expect to achieve in program outcomes.

AABE believes the Board and utilities are in uncharted waters. The amount of investment necessary for saturated energy efficiency adoption in low-income communities is significant, and will need to be long-term, particularly as connected to economic development goals. Effective energy efficiency goes beyond smart meters, advanced thermostats, and energy efficient appliances. Constant, consistent, and regular education will be essential in targeted communities, and program administrators will need to account for how residents move in and out homes; home repairs throughout the life of installed devices, equipment, and appliances— to ensure energy efficiency investments are not wasted, or to avoid loss of scheduled savings; Device, equipment, and appliance repairs over the life of the product— and the Board should anticipate higher replacement costs until consumer operational education and experience are

[20] New Jersey Board of Public Utilities (2020), *Straw Proposal*, 39.
[21] Hale, Z. (April 8, 2020), Utilities Call on Fed to Expand Access to Short-Term Debt as Non-Payments Spike, *S&P Global*. Retrieved from https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/utilities-call-on-fed-to-expand-access-to-short-term-debt-as-nonpayments-spike-57962376.

consistent with product guidelines; robust job training, outreach, supportive services and placement; and successful execution of minority contracting development and engagement.

If New Jersey is to be successful in achieving the objectives of the CEA and EMP, and if the Board is to realize the achievements of universal access and economic development through energy policy, then private side investments from utilities must be induced, and not discouraged. Moreover, private and institutional investors must also see energy efficiency investments as value added. Implemented correctly, the state's energy and economic policy will align with economic development, reduced energy burden, and stable energy costs.

IV. Conclusion

As the country rebounds from the COVID-19 pandemic, New Jersey consumers will face a number of unknowns, including whether they will be employed, and how to repay deferred mortgage, rent, utility, and auto payments. Now is the time for energy efficiency, job training, employment, and minority contracting— targeting low-income communities. The investments required are significant, and the resources needed to protect the investments from failure are equally if not more substantial. We urge you to be a viable part of the "overhaul of New Jersey's energy systems, while growing the economy."[22]

Respectfully Submitted,

Dated: April 13, 2020

FOR THE AMERICAN ASSOCIATION OF BLACKS IN ENERGY

By: Paula R Glover

Paula R. Glover
President and CEO
1625 K. Street NW Suite 405
Washington, DC 20006
202-371-9530

[22] New Jersey Board of Public Utilities (2020), *Straw Proposal*, 7.

April 13, 2020

Board of Public Utilities
44 S Clinton Avenue
Trenton, NJ 08625

RE: BPU's Energy Efficiency Straw Proposal

The purpose of this letter is to provide written comment on the Board of Public Utilities' Energy Efficiency Straw Proposal (EESP). The African American Chamber of Commerce of New Jersey (AACCNJ) is dedicated to economically empowering and sustaining African American communities and businesses through entrepreneurship and initiatives throughout the state of New Jersey and through its partnership with the National Black Chamber of Commerce, Inc. Our chamber serves as a voice for communication, program creations and implementation of resolutions that address the economic disparities of New Jersey's African American business enterprises. The AACCNJ provides advocacy and support for businesses throughout the State of New Jersey.

AACCNJ understands that the opportunity to create business wealth within communities of color is directly connected to ownership. Despite consistent gains in business ownership over the last several years, African American business growth has trailed other minority groups and whites, based on research developed by the Congressional Black Caucus Foundation. Investments of the type envisioned by the Clean Energy Act (CEA) and considered under the Straw Proposal can provide needed opportunities for African American and minority owned businesses in our state.

The types of businesses impacted include administrative services, installations, transportation, construction, HVAC, and more. New Jersey utilities will lead the nation in developing economic opportunity and growth, including job development within diverse supplier companies. An increase in energy efficiency investments can lead to growth and opportunities for supplier diversity chains. For example, a utility that prioritized its diverse supplier investments consistently has achieved over $575 million, and equaling more than 20 percent of total purchases. Ideally these numbers increase exponentially for diverse suppliers with significant energy efficiency investments by New Jersey utilities.

But there is a growing concern for the African American community –particularly its business owners, are being left out of the discussion for how New Jersey can impact climate change and develop clean energy.

In the most recent Residential Energy Consumption Survey, nearly one-third of American families have problems paying their utility bills— roughly half of whom are African American. Energy efficiency can save a typical U.S. family 25% on utility bills, equaling over $2,200 annually, according to the U.S. Department of Energy.

As we continue our transformation to a clean energy state, it is crucial that New Jersey improves on its well-documented poor performance in providing energy efficiency programs specifically targeted to disadvantaged residents. Therefore, I urge you to strengthen the EESP so that it is targeted to moderate and low-income and moderate-income communities to allow all New Jersey residents the opportunity to unlock the benefits of energy efficiency.

Thank you,

John E. Harmon, Sr., IOM
Founder, President & CEO

By electronic mail

April 13, 2020

EnergyEfficiency@bpu.nj.gov

NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 35
Trenton, New Jersey 08625-0350
ATTN: Aida Comacho-Welch, Secretary

Re: NJ Energy Efficiency Transition Docket No. QO19010040
Energy Efficiency Transition Straw Proposal

Dear Secretary Camacho-Welch,

AARP, on behalf of its 1. 3 million Garden State members, thank you for the opportunity to comment on the NJ BPU's Staff Energy Efficiency Transition Straw Proposal.

The state's approach to energy efficiency (EE) and peak demand (PD) programming deserves review to ensure that it is performing as intended, and that all customers are obtaining the maximum direct benefit of participation. EE and PD are important contributors to achieving the goals of the Clean Energy Act of 2018 (CEA or the Act).

AARP suggests, however, that in this time of the COVID-19 pandemic, government resources should be directed at controlling the disease and saving lives. People are conserving energy as they stay at home and restrict activities. Demand and emissions are down and expected to remain down through 2021. [1] As New Jersey takes this time to focus on keeping people healthy, the Board's timeline for considering EE/DR changes need not proceed aggressively, instead providing all, especially those stakeholders who might otherwise be engaged in direct response to this pandemic, more time for review and consideration. The comment period for these proposals should be extended beyond today's April 13, 2020 deadline.

The Straw Proposal is comprehensive and lengthy, and AARP will not comment on each element. AARP's comments focus on the following areas in the Proposal: decoupling, advanced metering

[1] https://www.greentechmedia.com/articles/read/coronavirus-will-undercut-power-demand-from-east-to-wecc

AARP New Jersey, 303 George St., Suite 505, New Brunswick, NJ 08901 (866) 542-8165 www.aarp.org/nj

infrastructure, benefit/cost testing, and ability of all residential customers to participate in EE and DR.

AARP is pleased that the proposal does not call for "full decoupling". Full decoupling shifts risks to consumers that should remain with the utility. There is no evidence that utilities in New Jersey have failed to meet their EE/DR goals for lack of full decoupling. Also, if lost base revenue is determined to be an undesirable disincentive to meeting required EE/DR goals, lost base recovery as set out in the Straw Proposal is better targeted to the effects on lost sales than full decoupling.

AARP also agrees that a utility's return should be adjusted downward to reflect the lower risk the utility faces from EE/DR if its base revenues are held harmless. AARP disagrees, however, with the proposal to apply the return rate reduction only to EE/DR costs. The recovery of EE/DR costs is not the sole or even primary reduction in the utility's risk enjoyed as a result of lost base revenue recovery. Indeed, the base revenues that are restored are associated with the entirety of the utility's enterprise, and with the risk to the entire return on equity. The return reduction should be applied to the rate of return on equity, not the EE/DR costs.

New Jersey has wisely looked at EE/DR program costs and benefits from a variety of perspectives, and has not chosen a single test above all others. AARP is concerned that limiting evaluation to the Total Resource Cost Test, or its complement the Resource Value Test (described in the National Standard Practice Manual) will both expand the expenditure of ratepayer money on uneconomic programs and limit expenditures on worthy programs that expand access to the direct benefits of EE/DR. Most importantly, it will raise rates in the short run using this overly-generous evaluation test.

The Straw Proposal calls for use of advanced metering infrastructure "to understand consumption patterns and identify energy saving opportunities." (Straw Proposal at p. 21.) As the Board knows, advanced metering infrastructure is very expensive, and its value to consumers has been challenged in recent years.[2] AARP cautions the Board that advanced metering infrastructure should not be seen as a component of an EE/DR policy without further research and analysis.

AARP agrees that New Jersey needs "a more robust engagement on the issues of equitable access to energy efficiency." (Straw Proposal at 29.) Under the Straw Proposal, most programs would be devolved to the utilities, who would be encouraged to file common CORE programs. The Proposal does recognize that "Programs that address equity considerations are best administered through coordination between the State and Utilities." (Straw Proposal at page 21.) Staff recommends consideration of "an Equity Working Group (EWG) in order to ensure the integration of equity concerns into all aspects of program administration and implementation."

This group will include representatives from each of the other working groups in order to ensure that there is a dedicated forum for integrating equity into each of these focus areas—Comfort Partners, Multifamily, EM&V, and Marketing and Communications. Particular attention will be

[2] Herman K. Trabish, "Slowed pay-off from billions in AMI investment puts the technology's future in doubt" Utility Dive, February 20, 2020. Available at https://www.utilitydive.com/news/slowed-pay-off-from-billions-in-ami-investment-put-the-technologys-future/570274/

given to the development and evaluation of equity related metrics to assess the magnitude of impacts and progress towards State goals, using traditional savings metrics, as well as other relevant data, including health impact assessments. The work of the Equity Working Group will be supported by a robust stakeholder process, (Straw proposal at page 29).

AARP has long called for research and analysis into the demographics of customers who participate in the traditional EE/DR programs, and those who have not. This is now required by NJ statute. The findings of this research should be considered before any final decisions are reached on EE program design and cost. Contrary to the suggestion at p. 58, after-the-fact evaluation, measurement and valuation should not be the primary vehicle for identifying problems facing non-participants. Incentive and loan programs make obtaining EE or DR easier for some customers, but there are large numbers of customers who still face market barriers that prevent their participation in EE/DR programming and benefits. There are programs that are designed with these customers in mind, and New Jersey will benefit from consideration of these approaches. On-bill financing as referenced in the Straw Proposal may have some of the elements necessary to overcome persistent market barriers, but is not sufficient.[3]

In summary, AARP commends the staff for its work to develop the Straw Proposal. AARP suggests, however, that more time for review, analysis and determinations on the policies be provided in light of the present COVID-19 pandemic. In response to the Straw Proposal, AARP has put forward comments concerning certain aspects of the Straw Proposal. In particular, AARP opposes full decoupling, supports the reduction of return on equity as the result of risk shifting from lost-base revenues, cautions against costly investments in advanced metering infrastructure, supports benefit/cost testing that is not intended to expand the amount of ratepayer money spent on EE/DR, especially because present program designs do not allow all residential customers to participate in EE and DR.

Thank you very much for your consideration of AARP New Jersey's comments on this important policy.

Sincerely,

Evelyn Liebman
AARP NJ Director of Advocacy

Cc: BPU President Fiordaliso
BPU Commissioner Holden

[3] Note also that the Multifamily Group will be dealing among other things with the perennial problem of the split landlord/tenant incentive. The novel program design that addresses other shortfalls in traditional EE/DR programs overcomes the split incentive problem, as well.

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BPU Commissioner Solomon
BPU Commissioner Chivukula
BPU Commissioner Gordon
Stephanie Hunsinger, AARP NJ State Director
Kathleen Frangione, Chief Policy Advisor – Office of the Governor of New Jersey
Stefanie Brand, Director, NJ Division of Rate Counsel

AARP is a nonprofit, nonpartisan organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Island

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From:	Paula Harrington
To:	energyefficiency
Subject:	[EXTERNAL] Energy Efficiency Transition – Full Straw Proposal
Date:	Monday, April 13, 2020 7:59:41 AM
Attachments:	image001.png image002.png image003.png image004.png

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Attn: Aida Camacho-Welch, BPU, Secretary

As principal of an Association Management firm that represents many nonprofits that provide critical services to underserved communities throughout the state and board member of four HUD homes and Volunteers of America of Delaware Valley, I am writing to urge BPU to move forward with an energy transition plan that benefits ALL New Jerseyans. Low-income residents in the Garden State have typically been left behind when it comes to realizing the benefits of energy efficiency. I'm concerned this disparity will continue if the current Straw Proposal moves forward without the following considerations.

First, the Straw Proposal should allow utilities to pay back the cost of energy efficiency programs, especially those aimed at low-income residents, over the full 15-year life of the improvements. A longer time frame than the proposed seven-year amortization would reduce the cost burden on the state's most vulnerable residents while increasing their savings.

Second, the state must ensure that low- and moderate-income communities fully reap the benefits of the economic activity that investment in energy efficiency will generate. We know that energy efficiency is a job engine—accounting for about half of the job growth the energy sector. These well-paying jobs present a real opportunity to lift people out of poverty. Focus should be placed on job training programs and prioritizing small businesses in vulnerable communities to make it happen.

Energy efficiency implementation that is targeted to moderate and low-income families has the great potential to truly move New Jersey forward. I look forward to seeing it happen and certainly appreciate your consideration.

Sincerely,

Paula

Paula Harrington, Principal
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April 13, 2020

VIA ELECTRONIC MAIL
energyefficiency@bpu.nj.gov

Aida Camacho-Welch
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Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

RE: Energy Efficiency Transition – Full Straw Proposal
Comments of Atlantic City Electric Company

Dear Secretary Camacho-Welch:

On behalf of Atlantic City Electric ("ACE" or the "Company"), please accept these comments in response to the second Straw Proposal for New Jersey's Energy Efficiency ("EE") and Peak Demand Reduction Programs (the "Straw Proposal") presented by the New Jersey Board of Public Utilities (the "Board") on March 20, 2020.

A. Summary of ACE's Positions

This list provides a brief overview of ACE's core positions and recommendations. Explanations and data supporting the positions are included in the sections below.

- Use a utility's full Weighted Average Cost of Capital ("WACC"), as approved by the Board, for its EE Return on Equity ("ROE") value.

- Implement full decoupling for New Jersey's utility EE programs. Should the Board not implement full decoupling, then ACE recommends a Conservation Incentive Program ("CIP")–type mechanism be used, where CIP parameters would be proposed as part of a utilities program plan filing in the August/September 2020 timeframe.

- Energy savings goals should not be greater than two percent by Program Year 5.

- Allow the utilities to set their own energy savings targets *en route* to the two percent goal in Program Year 5. However, if the Board instead sets interim savings targets ACE

recommends the following savings targets: 0.20% in Year 1, 0.45% in Year 2, 0.75% in Year 3, 1.25% in Year 4, and 2.00% in Year 5.

- Establish energy savings targets at the gross level.

- Do not begin assessing penalties and awarding incentives until Program Year 5, as stated in the Clean Energy Act (P.L 2018, c.17) (the "CEA" or "Act").

- Expand the Neutral Incentive Zone (the "deadband") to range from 85% to 115% of Quantitative Performance Indicator ("QPI") performance.

- Cost Recovery for portfolio performance in the deadband (between 85% 115%) should be full WACC.

- Design the incentive and penalty ranges so they are equal in scale. Penalties to be realized for portfolio performance between 50% and 85% of goal and subject to ROE minus 100 basis points. Incentives to be realized for portfolio performance between 115% and 150% of goals and allowed ROE plus 100 basis points.

- Utilize three metrics: (1) energy savings; (2) cost-effectiveness; and (3) low-income customer access to EE programs; using the following weighting structure:

    - 60% for annual energy savings;
    - 30% for cost effectiveness;
    - 10% for low-income programs.

- Utilities should have the ability to administer programs that lead to their success. Utilities are responsible for the 2% energy savings goal and therefore should be allowed to use any program design to reach that goal.

- Utilities are best positioned to administer products programs. Each utility should have the flexibility to customize its programs and incentives as needed to best serve its customers, to take advantage of unique opportunities in the service territory, and to apply best practices from the utility's experience.

- The Cost-to-Achieve projections for utility-administered programs should not be used as guides or for evaluation purposes, as they are superfluous to other evaluation techniques.

- Utilize the Societal Cost Test for the benefit-cost testing of programs to best account for non-energy benefits.

- Utilities are best-positioned to offer Low- and Moderate-Income ("LMI") programs as they know the needs of the community and have existing relationships with community-based organizations and agencies.

- Conduct Evaluation, Measurement, and Verification ("EM&V") on Program Year 2 so that results and lessons learned can be incorporated into planning for Program Years 4 and 5, which takes place during Program Year 3.

- Evaluate energy savings on an *ex ante* basis to meet program goals and avoid excess program design and increased program costs.

- Apply EM&V findings prospectively during programs design phases to strengthen outcomes.

- Allow flexibility for program incentives to adjust to meet program needs as follows:

    - Budget shifts up to 50% with Staff notification; more than 50% require Board approval;
    - Budget shifts between sectors up to 25% with Staff notification; more than 25% require Board approval;
    - Incentive adjustments up to 50% increase with Staff notification and no limit on reduction of incentives; more than 50% requires Board approval.

B. <u>Investment Treatment</u>

- *Use a utility's full WACC, as approved by the Board, for its EE ROE value.*

The full WACC is important to ensure the State's EE goals are met for the following reasons:

1. Such investment treatment is consistent with the Act[1];
2. It is consistent with existing practices in both New Jersey and other states, and without it the goals of the CEA will not be met;
3. Full cost recovery ensures continued resilient utility operations, even when energy sales are decreased due to EE measures;
4. Earning full WACC on EE investments is commensurate with risk; and
5. WACC equates EE with other grid investments.

The Straw Proposal recommends incorporating the cost of debt and affording utilities their approved ROE less 100 basis points. ACE disagrees that a reduction in ROE is appropriate at any level. Given the importance of EE to cost-effectively meeting the State's clean energy and climate goals, putting energy efficient investments on par with investments in traditional alternatives, including wires solutions and additional generation, is critical to sending the appropriate signal as to the importance of energy efficiency compared to other resources. As the Company stated in its previously filed comments, the appropriate approach to establishing the ROE value for EE is to use a utility's full WACC, as approved by the Board. An approach that leads to utilities realizing less

[1] *See* <u>N.J.S.A.</u> 48:3-89.7(e)(1).

than full WACC is a departure from existing utility-managed energy EE programs, because the New Jersey utilities currently offering programs earn their full WACC on their programs today. Moreover, the Act permits utility investments in EE programs and provides that such investments "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."[2] The Board's well-established practice has been to permit recovery of prudently incurred costs associated with EE programs, including a return of and on the utility's capital investment at the utility's authorized return on equity.[3]

To support the proposed ROE reduction, the Straw Proposal relies on an outdated example, providing: "[t]his proposed mechanism is modeled on other states and districts such as Maryland and Washington D.C., which similarly allow for a return on energy efficiency investments, but modify that ROE based on the lowered risk."[4] The report[5] relied upon by Staff in the Straw Proposal, however, relates specifically to *full decoupling*, which is different from cost recovery on EE program investments. Furthermore, the referenced ROE modifications in Maryland and Washington, D.C. are no longer in effect, and EE investments earn or will earn the full WACC.[6] Therefore, the Maryland and Washington, D.C. examples do not support Staff's proposed modification to ROE. Instead, a utility's full WACC, as approved by the Board, should be used.

A reduction in ROE is also a departure from other states' current practices. In Maryland, currently, "[t]he utility business model encourages energy efficiency investment through two mechanisms: full revenue decoupling and the ability to rate base and capitalize their investments

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[2] *See* N.J.S.A. 48:3-98.1(a)(1); N.J.S.A. 48:3-98.1(b).

[3] The Board has repeatedly authorized utilities to earn their full authorized ROE on energy efficiency investments. *See, e.g.*, I/M/O the Petition of Public Service Electric and Gas Company for Approval of Changes in Its Electric Green Programs Recovery Charge and its Gas Green Programs Recovery Charge ("2014 PSE&G Green Programs Cost Recovery Filing"), Amended Order Approving Stipulation, BPU Docket Nos. ER14070651 and GR14070652 (dated May 19, 2015) (including numerous schedules reflecting inclusion of a return of and on investments); In re the Petition of South Jersey Gas Company for Approval of an Energy Efficiency Program with an Associated Energy Efficiency Tracker Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. GO12050363, Order (dated June 21, 2013); I/M/O the Petition of South Jersey Gas Company for Approval to Continue Its Energy Efficiency Programs and Energy Efficiency Tracker Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. GR15010090, Order (dated August 19, 2015) at Paragraph 22 of the approved Stipulation.

[4] Straw Proposal, at 39-40.

[5] *See* Straw Proposal, at 40, n. 1 (*citing* Morgan, P., *A Decade of Decoupling for US Energy Utilities: Rate Impacts, Designs, and Observations* (Feb. 2013) (hereinafter "*A Decade of Decoupling*"), at 14, *available at* https://www.raponline.org/wp-content/uploads/2016/05/gracefulsystems-morgan-decouplingreport-2012-dec.pdf.

[6] *See* I/M/O the Commission's Investigation of Advanced Metering Technical Standards, Demand Side Management Cost Effectiveness Tests, Demand Side Management Competitive Neutrality, and Recovery of Costs of Advanced Meters and Demand Side Management Programs, Public Service Commission of Maryland, Case No. 9111, Order No. 81637; *available at* https://webapp.psc.state.md.us/newIntranet/Casenum/NewIndex3_VOpenFile.cfm?FilePath=//Coldfusion/Casenum/9100-9199/9111/076.pdf; Clean Energy Omnibus Amendment Act of 2018, *available at* http://lims.dccouncil.us/Download/40667/B22-0904-SignedAct.pdf.

with a return on investment based on the weighted average cost of capital, which was instituted in 2007."[7] In Utah, "Rocky Mountain Power (RMP), the largest investor-owned utility in Utah, was authorized to capitalize demand-side management costs and amortize the costs over a period of 10 years, and to recover these costs through rates. This allows RMP to earn a return on its investments in energy efficiency in a manner comparable to its traditional infrastructure investments."[8] In fact, at least one state saw benefits *in going beyond the full ROE* to incentivize EE investments. "Nevada, for example, until recently allowed utilities to earn as much as an extra 5% [ROE] for applicable, approved [demand-side management] costs. Base ROE is 10.25%, meaning that utilities could earn up to 15.25% ROE."[9]

The Straw Proposal suggests that the proposed reduction in ROE reflects the risk reduction associated with the contemporaneous recovery provided for by the cost recovery mechanism. While the surcharge allows for costs to be recovered on a monthly basis, the proposed seven-year amortization treatment allows for only one-seventh of an EE investment to be recovered per year in a seven-year period. This approach, inclusive of the ROE reduction, imposes additional risk on a utility and essentially devalues EE compared to other investments. EE programs inherently reduce revenues, and prohibiting a full return for program operations further decreases utility revenues, weakening their financial health. Given the need for strong, responsive utilities in New Jersey—given the number of emergencies the State has experienced over the past decade—the Board should ensure that utilities maintain the financial ability to provide resiliency and reliability for all customers.

Further, utilities finance their entire businesses – not parts of their businesses. The WACC considers the full range of risks faced by a utility. Use of the full WACC, including the authorized ROE, avoids singling out EE investments for lower returns, ensuring that EE investments are on a level playing field with all other competing distribution investments, thereby directly addressing a potential financial bias against investment in EE programs, and providing better support for the EE goals of the Act. Reducing a utility's ROE by *any* amount would result in a deficiency between actual financing costs incurred by the utility and those recovered from customers. The only way for a utility to cure this deficiency would be to seek an increase in distribution rates, as higher amounts of equity will be required to fund the distribution business in order to maintain the utility's capital structure.

The Straw Proposal also posits that EE investments are less risky than traditional capital investments, which may have long construction periods. However, customers view choosing energy-efficient options as inherently risky, as it requires overcoming certain biases (sometimes

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[7] ACEEE, *Snapshot of Energy Efficiency Performance Incentives for Electric Utilities* (Dec. 2018) at 7, available at https://www.aceee.org/sites/default/files/pims-121118.pdf.

[8] *Id.* at 9.

[9] ACEEE, *Performance Incentives* (Feb. 2020), *available at* https://www.aceee.org/toolkit/2020/02/performance-incentives (*citing* Nevada PUC Docket No. 02-5030).

known as the EE "gap").[10] From the utility's perspective, unlike a distribution transformer, for example, which can be specified, ordered, and installed largely on demand, EE programs require educating customers, motivating them to overcome their cognitive biases and voluntarily take action, and connecting them with the resources they need to implement energy-efficient choices. As such, the hurdles and risks associated with EE investments, particularly when relying on consumer behavior, is greater than traditional infrastructure investments.

The CEA requires electric utilities to achieve an incremental energy savings target approximately six times the levels currently being achieved by the New Jersey electric utilities, as recorded in ACEEE's 2019 State Scorecard.[11] Data also show that states that allow capitalization of expenditures achieve higher savings, on average, than those that do not allow such treatment. Accordingly, ACE encourages New Jersey to follow that same course.

C. Lost Revenue Treatment

- *Implement full decoupling for New Jersey's utility EE programs.*

- *Should the Board not implement full decoupling, then ACE recommends a CIP be used, where utilities propose CIP parameters as part of program plan filings.*

Similar to Staff's previous draft cost recovery proposal, the recent Straw Proposal acknowledges that a decoupling mechanism will allow utilities "to aggressively pursue and endorse energy efficiency."[12] ACE agrees, but does not believe that limited decoupling will suffice to achieve the State's EE goals. According to the Regulatory Assistance Project, "Limited decoupling does not fully eliminate the throughput incentive."[13] ACE believes that to fully neutralize the "throughput incentive" and stabilize revenue, the Board should implement full decoupling, which can also protect ratepayers from rate increases associated with electrification initiatives. The preference for full decoupling is echoed in ACEEE's 2019 State Energy Efficiency Scorecard, which provides: "States losing ground also typically have not fully implemented changes to the utility business model that encourage utilities to take full advantage of energy efficiency as a resource, including through decoupling, performance incentives, and energy savings targets."[14] Because no forecasting technique can ever be exact, full decoupling is the most straightforward

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[10] W. Kip Viscusi and Ted Gayer, *Behavioral Public Choice: The Behavioral Paradox of Government Policy*, 38 Harv. J.L. & Pub. Pol'y, at 981-82 (2016), *available at* https://www.brookings.edu/wp-content/uploads/2016/06/The-behavioral-paradox-of-government-policy.pdf.

[11] ACEEE, 2019 State Energy Efficiency Scorecard, at 29, *available at* https://www.aceee.org/research-report/u1908.

[12] Straw Proposal, at 40.

[13] Regulatory Assistance Project, *Revenue Regulation and Decoupling: A Guide to Theory and Application* (Nov. 2016), at 13, *available at* http://www.raponline.org/wp-content/uploads/2016/11/rap-revenue-regulation-decoupling-guide-second-printing-2016-november.pdf.

[14] ACEEE, 2019 State Energy Efficiency Scorecard, at 14, *available at* https://www.aceee.org/research-report/u1908.

solution to the inevitable inaccuracies of forecasting, and which also addresses the throughput incentive.

Full decoupling will also avoid the complicated attribution process required by Staff's limited decoupling proposal, and better aligns with the language of the Act, which contemplates EE goals being achieved through a wide range of supporting efforts, including "the public utility's energy efficiency measures and other non-utility energy efficiency measures, including measures to support the development and implementation of building code changes, appliance efficiency standards, the Clean Energy program, any other State-sponsored energy efficiency or peak reduction programs, and public utility energy efficiency programs."[15] In order to be consistent with the Act, New Jersey's decoupling mechanism should take a holistic approach, looking to all causes of sales variation. As stated by ACEEE, decoupling is "part of a 'complete package' to align utility financial interests with public policy interests towards greater levels of energy efficiency."[16]

Notably, other stakeholders who have taken part in recent EE proceedings convened by the Board are supportive of full decoupling. ACEEE, for example, evaluated lost revenue adjustment mechanisms ("LRAMs") in 15 states deploying EE programs as part of a 2015 study, and found:

> Creating a regulatory environment that incentivizes utilities to invest in efficiency is critical for programs to be successful, impactful, and long lasting. Doing so requires a mix of policy tools. In addition to energy efficiency targets, utilities need a business model that aligns their financial interests with energy efficiency, including program cost recovery, performance incentives that encourage utilities to achieve high levels of savings, and some policy mechanism to neutralize the throughput incentive. It is our opinion that decoupling is the best third leg of this stool.[17]

Additionally, in its comments filed with the Board on January 3, 2020, the Energy Efficiency Alliance of New Jersey ("EEA-NJ"), an organization comprised of more than 60 businesses that provide EE products and services, and have first-hand experience of successful EE programs, stated:

> The BPU should avoid mechanisms such as LRAM and Partial Decoupling, as they allow for utilities to have a windfall of profits and fail to align utility financial incentives with state energy efficiency policies. Both LRAMs and Partial Decoupling simply compensate utilities for perceived revenue losses without properly addressing the core issue - the throughput incentive. Additionally,

[15] N.J.S.A. 48:3-87.9(e)(3)c.

[16] ACEEE, *Aligning Utility Interests with Energy Efficiency Objectives* (2006), at 40, *available at* https://www.aceee.org/sites/default/files/publications/researchreports/u061.pdf.

[17] ACEEE, *Valuing Efficiency: A Review of Lost Revenues Adjustment Mechanisms* (Jun. 2015), (hereinafter "*Valuing Efficiency*"), at vii, *available at* https://aceee.org/sites/default/files/publications/researchreports/u1503.pdf.

> both mechanisms allow the utilities to earn a guaranteed income while also profiting from electricity sales, putting the ratepayers at risk of overpaying the utilities. In addition to being a mere half-measure for cost recovery, LRAM's and partial decoupling are administratively burdensome and technically complex. Under full revenue decoupling, no matter what factors impact sales, the true-up mechanism will ensure that utilities only earn their revenue requirements, no more, no less.

The comments of ACEEE and EEA-NJ support ACE's position.

Further, ACE's sister utilities, Pepco, Delmarva Power, and Baltimore Gas & Electric, have realized the effectiveness of full decoupling in helping to achieve EE goals. Decoupling was implemented in Maryland prior to the establishment of Maryland's "EmPOWER MD" EE program, which established State-mandated goals to reduce energy consumption 15% by 2015. Decoupling, in particular, has helped the utilities develop robust EE program portfolios that met this goal, and has led to increasing EE goals in subsequent program cycles.

For electric utilities, variations in sales can result from several different causes, including, but not limited to, conservation, EE measures, weather, and the economic cycle, making attribution much more challenging. This will be especially true in New Jersey, given the expected presence of both State- and utility-run programs. Unfortunately, a limited decoupling scheme would result in confusion and complexity, because utilities and intervenors will need to present on what should and should not be recovered, leading to contentious hearings that will unnecessarily require the time and resources of the utilities, the Board, Rate Counsel, and other stakeholders. Full decoupling, on the other hand, would not impose these burdens.

As the Company indicated in previously filed comments, decoupling would not result in increased costs to ratepayers.[18] As ACEEE has stated, "[t]he rate impacts of decoupling are well known due to careful research and tracking over the past several years . . . ."[19] Likewise, a leading 2013 report found: "Decoupling rate adjustments are mostly small – within plus or minus two percent of retail rates. Across the total of all utilities and rate adjustment frequencies, 64% of all adjustments are within plus or minus 2% of the retail rate."[20]

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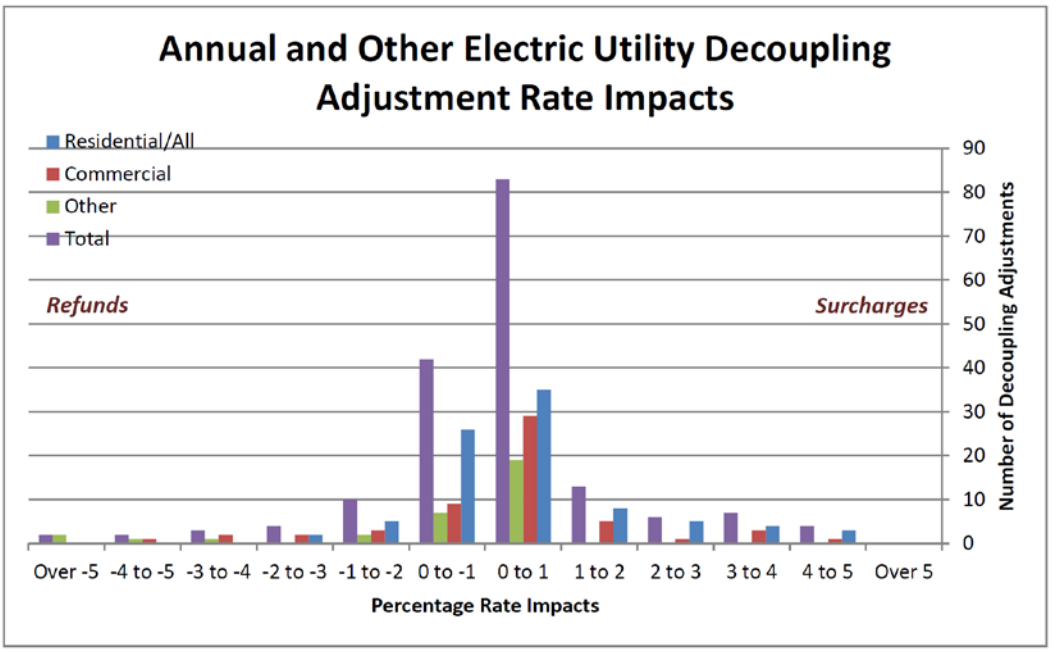
[18] Christina Simeone, *Rate Decoupling: Economic and Design Considerations*, Kleinman Center for Energy Policy (Apr. 2016), at 7, *available at* http://ipu.msu.edu/wp-content/uploads/2017/09/Rate-Decoupling-Simeone-2016.pdf.

[19] *Valuing Efficiency*, at 20.

[20] *A Decade of Decoupling*, at 3.

Figure 1: Annual and Other Electric Utility Decoupling Adjustment Rate Impacts[21]



Full decoupling is more protective of ratepayers than limited decoupling because "[f]ull decoupling policies eliminate the potential for windfall revenues when sales exceed expectations."[22] Under full decoupling, the utility would recover its approved revenue requirement and no more. Ratepayers are further protected because decoupling runs both ways, with symmetrical adjustments allowing for surcharges when revenue is below allowed levels, and refunds when revenue is above allowed levels. Overall, full decoupling is fairest to ratepayers, as it prevents the utility from receiving excess profits.[23]

The decoupling mechanism used to support New Jersey's EE goals should be formulaic and have a regular and scheduled filing and review procedure. A filing and procedural schedule with timely approval will ensure consistency that the utility's recovery period coincides with rate cases and other business operations, which will reduce uncertainty and regulatory lag.

ACEEE's 2019 State Scorecard ranked Maryland the most improved state, ranking fourth in overall incremental electric savings achieved. (By contrast, New Jersey ranked thirty-fourth.) ACE welcomes the opportunity to bring award-winning program design and implementation and most importantly, cost effective energy savings to our customers in New Jersey. The Company believes that the best way to do that is by authorizing full decoupling.

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[21] *Id.*

[22] *Id.* at 10.

[23] *See* Regulatory Assistance Project, *Revenue Regulation and Decoupling: A Guide to Theory and Application*, at CS57, *available at* http://www.raponline.org/wp-content/uploads/2016/11/rap-revenue-regulation-decoupling-guide-second-printing-2016-november.pdf ("The allocation of revenue regulation revenue surpluses or deficits should be symmetrical so that overpayments are credited to customers just as underpayments are paid by those same customers.")

If the Board does not accept full decoupling at this time, ACE recommends that a CIP-type mechanism be explored to meet the lost revenue requirements of the CEA. Because this type of LRAM has not been discussed in detail during stakeholdering, and currently only applies to natural gas utilities, which developed the CIP mechanism long before the passage of the CEA, ACE could only embrace a CIP approach if the Board allowed each utility to propose the specific terms of the CIP that would apply to them as part of the utilities' upcoming EE filing.

D. Overall Utility-Specific Energy Use Reduction Targets

- *Energy savings goals should not be greater than two percent by Program Year 5.*

- *Allow the utilities to set their own energy savings targets* en route *to the two percent goal in Program Year 5. If the board determines interim goals are appropriate then Table 1 below outlines the annual savings targets that should be used for ACE.*

Table 1: Alternative Savings Target Levels

Program Year	Savings Target
Year 1	0.20%
Year 2	0.45%
Year 3	0.75%
Year 4	1.25%
Year 5	2.00%

Under the Straw Proposal, the Board would establish utility-specific annual energy reduction targets for each Program Year, based on the potential for electricity and natural gas usage reductions in each utility territory, and set at reasonable levels that reflect achievable net annual energy usage reductions in each utility territory.

The Company notes that the savings targets proposed in the Straw Proposal are still informed directly by the "Energy Efficiency Potential in New Jersey" Study (the "Study") performed by Optimal Energy. As conveyed in previous comments, ACE does not believe that the Study adequately captured, assessed, and presented certain critical policy and technical considerations. The Study took a one-size-fits-all approach to establishing targets, rather than the utility-specific goal setting contemplated by the Act. Because a utility is best-positioned to understand what is reasonable and achievable in its service territory, ACE recommends that the Board allow the utilities to set their own energy savings targets *en route* to the 2% goal in Program Year 5.

Should the Board choose to include annual savings targets prior to Program Year 5, ACE believes that the targets proposed in the Straw Proposal are not in line with current market and programmatic realities in New Jersey. In 2017, average incremental savings across all EE programs (including mature programs) in states with EE Resource Standards was 1.2% of retail electricity

sales.[24] Therefore, targeting 0.75% (nearly two-thirds of the way to this average) in Program Year 1 is overly ambitious and runs counter to the concept of gradually phasing in savings goals, especially since New Jersey programs are largely starting from a standstill. Additionally, it is worth noting that the proposed 0.75% target for Program Year 1 is more than twice the level of savings that OCE – with mature programs in full operation – achieved this past year (0.35%). In sum, the Program Year 1 target is not in accord with historical performance in New Jersey and is overly ambitious, given that the contemplated utility programs will be new programmatic efforts.

Therefore, if the Board implements partial savings targets in Program Years 1 through 4, the Company asks that the Board consider savings target levels different from those set forth in the Straw Proposal. *Table 1*, above, includes one approach , and is based on ACE's view of the market and the challenges associated with transitioning programs. In this example, the annual targets start low, to reflect the significant challenges of garnering savings from new programs. However, the year-over-year increases grow with each Program Year, peaking at 2% the end of the five-year period, consistent with the Act. ACE's proposed approach is also consistent with the anticipated gradual build-up of program infrastructure, and the parallel priming of the market by program marketing and branding efforts.

E. <u>Utility Program Annual Energy Savings Targets</u>

- *Establish energy savings targets at the gross level.*

Under the Straw Proposal, Utility Program Annual Energy Savings Targets would represent the portion of the overall net energy savings expected to be achieved by each utility, based on the overall utility-specific annual energy savings targets, minus the annual energy savings anticipated to be achieved through programs administered by the Board's Office of Clean Energy ("OCE"). These targets would be the basis for developing the utility-specific QPIs for each metric. Staff further proposes that subsequent QPIs be based only on the Utility Program Annual Energy Savings Targets in order to ensure that utilities receive incentives or penalties based only on the performance of programs that they administer or co-manage.

Under the Straw Proposal, Staff recommends that energy savings should be reported in both gross and net savings, with net savings utilized for all aspects of program review, including cost-effectiveness testing and compliance. In the short term, while more New Jersey-specific net-to-gross factors are being developed, New Jersey will utilize a net-to-gross value of 0.84 to be applied to all programs, except for low-income, for which 1.0 should be used.

ACE continues to believe that for goal achievement and reporting purposes, the gross savings level should be used. Gross values provide the real impact on the grid sales that are taking place, as defined by the State and Local Energy Efficiency Action Network ("SEE Action"):

[24] *See* ACEEE, *Policy Brief: State Energy Efficiency Resource Standards* (May 2019), at 1, *available at* https://www.aceee.org/sites/default/files/state-eers-0519.pdf.

> Gross Market Savings: The change in energy consumption and/or demand that results from energy efficiency programs, codes and standards, and naturally occurring adoption, which have a long-lasting savings effect. Gross market savings generally do not include temporary reductions in energy use from changes in weather, income, energy prices, and other structural economic changes such as in industry composition.[25]

While the CEA does not state explicitly whether energy savings targets should be measured at the gross or net level, the Act speaks to the full impact of programs in a manner that is inconsistent with the limitations inherent in net savings:

> A public utility may apply all energy savings attributable to programs available to its customers, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on the date of enactment of [the CEA], building codes, and other efficiency standards in effect, to achieve the targets established in this section.[26]

Therefore, the Act provides that, per the definition of Gross Market Savings (representing all energy savings), and per the goal to achieve energy reductions from multiple measures some of which cannot be measured at the net level (codes and standards) via multiple sources, that the utility programs should be measured at the gross, rather than net, level.

Notably, OCE has historically reported on its program savings at the gross level. Likewise, nearby states with robust EE programs, such as Maryland, have established savings targets at the gross level.[27] Continuing to measure programs at the gross level allows for comparisons across programs and territories that may have different net-to-gross ratios, and provides a true picture of customer-realized savings. According to a 2017 report of the National Renewable Energy Laboratory ("NREL"), "[a] gross savings target may provide a clearer incentive structure for the program administrator, and there is generally less controversy over whether the target is achieved."[28] Further, according to ACEEE, "gross savings are more straightforward and less expensive to estimate."[29]

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[25] SEE Action, *Energy Efficiency Program Impact Evaluation Guide* (Dec. 2012), at A-7, *available at* https://www4.eere.energy.gov/seeaction/system/files/documents/emv_ee_program_impact_guide_0.pdf.

[26] N.J.S.A. 48:3-98.3(c).

[27] Maryland, which ranks seventh in ACEEE's 2019 Scorecard on EE, established a 2% goal based on gross savings.

[28] NREL, *Chapter 21: Estimating Net Savings – Common Practices: Methods for Determining Energy-Efficiency Savings for Specific Measures* (Oct. 2017), at 8-9, n.10, *available at* https://www.nrel.gov/docs/fy17osti/68578.pdf

[29] ACEEE, *The Best Value for America's Energy Dollar: A National Review of the Cost of Utility Energy Efficiency Programs* (Mar. 2014), at 6, *available at* https://www.aceee.org/sites/default/files/publications/researchreports/u1402.pdf.

By contrast, measuring energy savings at the net level increases the difficulty, costs, and risks involved with utility EE programs. According to the Midwest Energy Efficiency Alliance ("MEEA"), under "a net savings approach, utilities may risk not meeting savings goals. This can force them to 'over-save' to cover any potential discount later applied with the net calculation."[30] Measuring savings at the net level would come at an additional cost to customers and add additional performance risk to the utilities and OCE.

The extra costs involved in achieving net savings over gross savings are evident when one considers the average Net-to-Gross ("NTG") ratios observed across established utility EE programs. According to a 2015 report prepared for United States Environmental Protection Agency ("EPA"), "[a]verage NTG ratios range from 83 percent to 94 percent depending on the customer sector, with 87 percent being the average across all years and customer sectors."[31] To be sure, establishing new EE programs is a challenging endeavor in the first instance. Given the effective NTG ratios, pursuing net savings instead of gross savings would increase the difficulty level by approximately 13% or more. Considering the impact of diminishing returns, the costs that would be imposed on ratepayers to achieve an extra 13% in energy savings could be as much as $11.8 million in Program Year 5, or $39 million over the five-year program cycle, based on the proposed energy savings ramp rate.

Furthermore, the additional costs related to calculating net savings versus gross savings could be wasteful and not worth the extra expense. According to MEEA, "a great deal of resources are typically spent on determining net savings, which may not always yield more accurate results than a less-costly gross savings approach."[32] Attribution can be especially complicated. The Lawrence Berkley National Laboratory also found that "[s]ome respondents that favored reporting only gross savings indicated that conducting extensive net-to-gross type of studies is a waste of resources (*i.e.* time and money) given the uncertainties in attributing savings to a single program."[33]

Despite the inclusive language of the Act, Staff proposes that net savings is warranted to counteract the effects of free riders and spillover. However, according to a 2015 report prepared for the EPA, the effects of free ridership and spillover stand to cancel each other out:

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[30] MEEA, *A Net or Gross Energy Savings Approach: Perspectives at the MEEA 2012 Annual Meeting of the Membership* (Apr. 2013) (hereinafter "MEEA"), at 8, *available at* https://www.mwalliance.org/sites/default/files/media/Net_v_Gross_4_10_2013.pdf

[31] Synapse Energy Economics, *State Net-to-Gross Ratios, Research Results and Analysis for Average State Net- to-Gross Ratios Used in Energy Efficiency Savings Estimates* (Jan. 2015), at 1, http://www.synapse-energy.com/sites/default/files/NTG-Research-14-053.pdf

[32] MEEA, at 4.

[33] Lawrence Berkley National Laboratory, *Review of Evaluation, Measurement and Verification Approaches Used to Estimate the Load Impacts and Effectiveness of Energy Efficiency Programs* (Apr. 2010), at 20, *available at* https://www4.eere.energy.gov/seeaction/system/files/documents/emv_approaches.pdf.

> The free rider effect reduces a program administrator's savings…. Conversely, spillover increases the NTG ratio, indicating that a high percentage of savings are attributable to spillover effects. Spillover savings are in addition to the programs' savings and are realized because of the program's efforts, and are typically attributable to the program. The spillover effects increases a program administrator's savings…. With an NTG ratio that accounts for both free ridership and spillover, the two effects will cancel against each other.[34]

In light of the inclusive language of the Act, the additional costs associated with determining net savings, and the limited utility of the net savings approach, ACE urges the Board to calculate savings at the gross level, which would be most effective at achieving the State's EE goals, rather than the net level.

Furthermore, Staff proposes to form an energy codes review panel to identify opportunities for greater EE via building energy code strategies, quantifying the energy savings that could result from updates to energy codes. ACE agrees that the Act contemplates savings targets to be achieved by a wide range of supportive EE efforts.[35] The Act's inclusive range of supportive measures, such as energy codes, further underscores the importance of measuring program outcomes at the gross level. ACE continues to believe that for determining achievement of goals and reporting purposes, the gross savings level should be used. The gross level approach would allow for comparisons across programs and territories that may have different net-to-gross ratios and provides a true picture of customer-realized savings. By integrating efforts such as building code updates, gross values provide the real impact on the grid sales that are taking place.

F. Performance Incentive and Penalty Treatment

- *Begin assessing penalties and awarding incentives in Program Year 5.*
- *Expand the deadband to range from 85% of QPI performance to 115% of QPI performance.*
- *Design the incentive and penalty ranges so they are equal in scale. Penalties to be realized for portfolio performance between 50% and 85% of goal and subject to ROE minus 100 basis points. Incentives to be realized for portfolio performance between 115% and 150% of goals and allowed ROE plus 100 basis points.*

The Act that states "[i]f an electric public utility or gas public utility fails to achieve the reductions in its performance target established in the quantitative performance indicators, the

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[34] Synapse for EPA, *State Net-to-Gross Ratios, Research Results and Analysis for Average State Net-to-Gross Ratios Used in Energy Efficiency Savings Estimates* (Jan. 2015), at 5-6, http://www.synapse-energy.com/sites/default/files/NTG-Research-14-053.pdf.

[35] N.J.S.A. 48:3-87.9(e)(3)c.

public utility shall be assessed a penalty as determined by the board."[36] The Company cautions that inappropriately strident targets or earnings eligibility thresholds can have the effect of sending counterproductive signals to the utility regarding performance. Therefore, ACE offers the alternative proposals to performance treatment below.

The Straw Proposal recommends a performance penalty if a utility achieves between 50% and 90% of goals pursuant to QPIs. ACE recommends that the Board refrain from applying incentives and penalties in the "ramp-up" years of the EE programs to allow for an effective program administration transition and for marketing efforts to develop, and instead begin assessing penalties and awarding incentives in Program Year 5. The Act does not require that each utility achieve any partial savings levels *en route* to the statutory 2% goal at Program Year 5. Further, applying QPIs starting in Program Year 5 better reflects the realities of initiating new programs. The administrative transition underway in New Jersey is complex and multifaceted, and utility management should focus on building the best program infrastructure for delivering savings and supporting policy goals in the long term. This approach will provide opportunities for the utilities to apply lessons learned during the ramp-up years and allows the utilities to responsibly experiment with their program designs without fear of penalties.

The Company agrees that Staff's inclusion of a deadband, through which the utilities would still realize cost recovery for EE portfolio expenditures, is a best practice often implemented for EE programs. However, the Company believes that the Straw Proposal's deadband is too narrow. As the Brattle Group has observed, "[a]n overly restrictive (*i.e.*, tight) dead band can mean that a utility may be penalized (or rewarded) for slight variations in factors that are beyond its control or capability to foresee."[37] Therefore, ACE suggests expanding the deadband to 85% of QPI performance on the low end and 115% of QPI performance on the high end.

Further, ACE contends that any point of any deadband should coincide precisely with the utility's authorized WACC, thereby putting successful program implementation on an equal footing with other utility investments. Realizing utility WACC is important for the following reasons:

1. Utility budgets for EE programs are likely to be largely static during program cycles, and therefore the prospect of significantly ratcheting up program investment in order to reach unadjusted ROE at 150 percent of program goal as proposed, is unlikely;

2. Utilities should be given a reasonable chance to earn their authorized WACC on EE program investments, as these investments should be on equal footing with infrastructure investments; and

3. The incentive range and the penalty range should be equal in scale, with penalties

[36] N.J.S.A. 48:3-87.9(e)(3).

[37] *Performance Based Regulation Plans: Goals, Incentives and Alignment* (Dec. 6, 2017), at xxv, *available at* https://www.michigan.gov/documents/mpsc/Brattle_Report_to_DTE_on_Performance_Based_Regulation_120617_6%2013150_7.pdf.

realized at the same level as incentives.

A major role of a deadband is to reduce both upside and downside risk and uncertainty: "Deadbands can help to account for uncertainty regarding the optimal performance level, as well as allow for some performance variance based on factors outside of the utility's control."[38] As factors outside of the utility's control are equally likely to affect both upside and downside outcomes, the Company believes that any dead band utilized should reflect mirrored incentive-side and penalty-side buffers, particularly regarding likelihood of achievement. This approach would align with generally accepted guidelines for performance incentive design, which "typically stress the importance of designing incentives such that financially favorable outcomes are as likely to be realized as unfavorable outcomes."[39] An equally scaled penalty and incentive range ensures fairness by making the incremental incentive slope (incentive ROE percentage per unit of QPI performance) the same on both sides of the deadband. In other words, for each unit of QPI performance that a utility improves or declines, there will be the same rate of increase or decrease in ROE. Therefore, ACE recommends the following structure in *Table 2* below for incentives and penalties.

Table 2

	% of Goal Attainment	**Proposed Treatment**
Penalty	50 – 85%	ROE minus 100 basis points, scaling linearly
Deadband	85 – 115%	Full WACC
Incentives	115 – 150%	ROE plus 100 basis points, scaling linearly

G. <u>Metrics</u>

- *Utilize three metrics: (1) energy savings; (2) cost-effectiveness; and (3) low-income customer access to EE programs.*

- *Do not utilize the following metrics: annual demand savings; lifetime energy savings; lifetime of persisting demand savings; and small business lifetime savings.*

ACE supports the proposition that utilities would propose QPIs in their program filings, following the guidance established through the stakeholder process. ACE recommends that the Board further simplify the process, both for the ease of evaluating performance and for the clear directional benefits it would provide to program management. QPIs are best developed in a collaborative fashion though a stakeholder process, and function best when they are clearly

[38] Synapse, on behalf of the Western Interstate Energy Board, *Utility Performance Incentive Mechanisms* (Mar. 2015, at 38, *available at* https://www.synapse-energy.com/sites/default/files/Utility%20Performance%20Incentive%20Mechanisms%2014-098_0.pdf.

[39] *Id.*, at xxvii.

measurable and focus on outcomes that achieve particular goals – in this case, the goals of the Act. ACE's overarching position on QPIs used for performance incentives is that they should be:

- Tied to policy goals and the enabling CEA;
- Clearly defined;
- Able to be quantified from reasonably available data;
- Sufficiently objective and free from external influences;
- Easily interpreted; and
- Easily verified.

Under the Straw Proposal, however, Staff proposes seven metrics to be phased in over the first five years of the programs. As recommended previously, ACE believes that the list of metrics forming at least part of the basis for QPIs should be simplified to include *just three*: (1) energy savings, as required by the Act; (2) cost-effectiveness (also required by the Act); and (3) low-income customer access to EE programs. These core metrics align with the Act's requirements concerning annual gross energy use reductions and are straightforward to evaluate, avoiding the complexity and hard-to-measure nature of the numerous metrics proposed in the Straw Proposal. Most importantly, these core metrics do not create new and costly program requirements that would go beyond the requirements of the Act.

The other four proposed metrics are either not supported by the language of the Act, have inherent flaws, and/or are redundant with other metrics. Those four metrics, and some of the reasons for *not* utilizing them, are:

- *Annual Demand Savings.* By asking utilities to focus on seven different metrics, utility decision-making will become clouded, in that when everything matters, nothing truly does. With many overlapping metrics, utilities will not have clear operational guidance when choosing where to direct limited resources.

- *Lifetime Energy Savings.* This proposed QPI assumes a consistent and steady performance over the full lifetime of an EE program, which tends not to be the case due to factors such as customer relocation and changes in operating conditions. The addition or removal of electric end-uses is a disproportionate driver of lifetime savings. Particularly given the recent enactment of electric vehicle legislation (P.L.2019, c.362), the State has a policy in furthering electrification, putting the lifetime energy savings metric and the State's policy goals at cross-purposes. Furthermore, lifetime energy savings over-emphasizes performance in future years, while the EE goals of the Act are expressly focused on annual performance. Finally, lifetime energy savings and demand savings will be reflected in the cost-effectiveness metric; it would be superfluous to include lifetime energy and demand savings as separate metrics.

- *Lifetime of Persisting Demand Savings.* This metric over-emphasizes performance in future years, while the EE goals of the Act are expressly focused on annual performance. Lifetime energy savings and demand savings will be reflected in the cost-effectiveness metric; it would be superfluous to include lifetime energy and demand savings as

separate metrics.

- *Small Business Lifetime Savings.* Like annual demand savings, small business lifetime savings clouds utility decision making and constitutes a redundant metric.

ACE agrees with the logic presented for including annual energy savings as a key metric and supports its inclusion. ACE's second recommended metric—cost-effectiveness—is one of many considerations when developing an EE program portfolio. As a best practice, any program portfolio should have a cost-effectiveness value greater than one.

As mentioned above, ACE agrees with using the societal cost test ("SCT") to account for other hard-to-quantify non-energy benefits, which are important to achieving State goals, as outlined in the 2020 Energy Master Plan. ACE also believes that all programs that target low-income customers should be exempt from a cost-effectiveness test because these programs are typically more expensive to administer, but are nonetheless an important part of an equitable program portfolio.

Notably, lifetime energy savings and demand savings will generally be reflected in the cost-effectiveness metric, because the tests for cost-effectiveness consider the net present value of avoided energy and capacity costs. The EE measures that have longer lifetimes and contribute to greater capacity savings will also tend to be more cost-effective. Because lifetime energy and demand savings correlate with cost-effectiveness, it would be superfluous to include lifetime energy and demand savings as separate metrics. If the Board seeks to separately measure lifetime energy and demand savings, it could require that these measures be tracked as part of the utilities' annual reporting, and therefore, the Board need not include these measures as separate metrics.

The Company agrees that program portfolios should be evaluated for their ability to reach low-income customers, and that a portion of each utility's program portfolio budget should be allocated to these customers. Notably, ACE's service territory has a significant low-income population, with roughly 25% of ACE households earning less than $35,000 annually.

The additional metrics proposed in the Straw Proposal, if implemented, would result in an unnecessarily complicated structure that has the potential to be contentious and slow down the regulatory process, as well as diffuse the utility's attention across several metrics. While the proposed weighting would provide some indication of priority, the metrics proposed in the Straw Proposal would send mixed messages to the utilities. Instead, ACE recommends that only the most important metrics, as set forth above, be used to evaluate utility performance. Furthermore, and as noted below, the Company recommends the following weighting structure: 60% for annual energy savings, 30% for cost effectiveness, and 10% for low-income programs.

H. Program Administration

- *Utilities should have the ability to administer programs that lead to their success.*

- *Utilities are best positioned to administer products programs.*

- *Each utility should have the flexibility to customize its programs and incentives as needed to best serve its customers, to take advantage of unique opportunities in the service territory, and to apply best practices from the utility's experience.*

The Straw Proposal represents Staff's revised proposal for distributing EE programs between the utilities and the NJCEP. The redistribution of existing programs, and development of new programs, is required to increase market penetration and achieve greater energy savings over time, as envisioned by the Act. To be sure, Staff's recent Straw Proposal reflects welcomed improvements compared to Staff's initial Straw Proposal, however, ACE continues to have concerns. ACE believes that the most effective role the Board can play in the EE context is in an oversight function, where the agency tracks program progress, provides timely response to utility proposals and requests, and ensures programs have the support and funding they need to be successful. ACE applauds the CEA in creating a leading goal of 2% of energy sales reduction for the State, and for Staff's efforts made in pursuit thereof. However, ACE believes that those goals will only be achieved by giving utilities full control of program implementation, subject to robust oversight by the Board.

ACE agrees with Staff that the utilities are best-positioned to administer programs that leverage existing customer relationships and touchpoints, available customer data and IT systems, and existing personnel and workforce resources, as well as subject matter expertise on energy efficient technologies and practices. ACE benefits from the extensive experience of its parent company, Pepco Holdings, whose other operating companies, Pepco and Delmarva Power, are recognized as national leaders in EE and demand response by EPA, the Alliance to Save Energy, the Peak Load Management Alliance, and others. ACE also brings lessons learned and best practices from its peers across the Exelon Utilities. For instance, ACE has taken the lessons learned in the Maryland service territories to develop its New Jersey programs quickly (*i.e.*, the Quick Home Checkup Program and a Behavioral Program). ACE is building relationships with customers and acquainting them with energy-saving programs, so they will be ready to enroll when we have more programs to offer. Further, ACE can leverage its existing customer relationships and touchpoints to reduce customer acquisition costs and increase program participation. Overall, considering the Company's experience managing programs, and ACE's readiness to implement programs, ACE recommends that the Board's role in this context be focused on oversight and ensuring programs have the support and funding they need to be successful.

Within the topic of Program Administration, ACE will focus on the need for utilities to have control over their Core Programs and to have Program Flexibility.

1. Core Programs

ACE continues to believe that the Retail Products program (proposed to be State-Administered), and the Energy Efficiency Products Marketplace and Appliance Recycling programs (proposed as Co-Managed Programs), should be transitioned to the utilities as Core Programs. For reasons discussed during the Staff-led, April 1, 2020, stakeholder meeting on program administration, and detailed in previously submitted comments, ACE believes that the utilities are best suited to administer these programs. The benefits of utility program administration of these programs include:

- *State Relationships with Retailers are Not Exclusive.* All of the major implementation contractors used by utilities have relationships with both "big box" stores and smaller retailers. Further, the utilities are best positioned to develop engagement strategies with the multiple retail channels using data and state-of-the-art technology necessary for a successful products program.

- *Utilities Maintain Local Connections with Customers and Communities.* Utilities are more connected to smaller neighborhood retailers that serve specific communities. The most vulnerable customers may not have transportation to a big box store; low-income communities tend to shop locally, creating a need for local, community-based relationships. In addition, utilities have a history of partnering with food banks and local food pantries to distribute energy efficient products to their customers who need them the most.

- *Utilities Provide Consistency, Which Avoids Confusion.* ACE believes that it is possible to achieve consistent offerings through utility management of a comprehensive products program; indeed, keeping Heating Ventilation and Air Conditioning ("HVAC") and water heater replacement programs under the same umbrella as the energy-efficient products will allow for consistent marketing and avoid customer confusion. Utilities can offer several products through a variety of retailers and an online marketplace, which allows customers to shop through their preferred outlet, while realizing a consistent messaging and branding. Additionally, when all energy-efficient products are offered through one administrator, the utility implementation contractor can offer a comprehensive approach for larger projects. Retailers, distributors offering mid-stream incentives, and service providers can work through one administrator type, and are used to and comfortable working with utilities.

- *Utilities Can Provide Better, Faster Customer Service*. Customer data is maintained by utilities; therefore, they are better positioned to qualify customers for incentives on energy-efficient products such as providing access and excellent customer service via instant rebates to eligible customers' phones.

- *Utilities Can Use Data for Targeted Marketing*. By managing all the product programs, utilities can use customer and participation data to better target marketing messages in home energy reports, including data obtained through AMI deployment.

Furthermore, Product Marketplace and Appliance Recycling go hand-in-hand, making it practical for them to be administered by the same entity. For example, there are recycling options for old appliances at the point of purchase, and a unique Appliance Recycling program can be administered for no-longer-needed appliances. And, as energy savings become more difficult to achieve, EE programs need to reorient to integrate demand response capabilities and to meet the growing demand for smart and automated home technologies. Having the ability to bundle enrollment into a demand response program when purchasing a smart thermostat or other energy-efficient smart home product at retail, or via a marketplace, is a holistic solution that decreases customer touchpoints and drives deeper savings and customer satisfaction. After Advanced Metering Infrastructure ("AMI") becomes available in New Jersey, the data capabilities between the utility and the customer technologies will allow for further energy savings through behavior and technology-driven changes. Overall, the opportunity to leverage these unique capabilities of the utilities will be lost if these key programs are not transitioned from the State to the utilities.

2. Program Flexibility

Under the Straw Proposal, Staff suggests that utilities be permitted to make certain adjustments to utility-led programs, except for the addition of new programs and the discontinuation of programs, and any proposed budget modifications to programs for LMI customers and small businesses, which would require full Board approval. Utilities would be permitted to make minor adjustments to program design with Staff approval, with Staff approving or denying proposed changes within thirty days of submission.

The Straw Proposal also contains the following recommendation regarding notification: "In addition to notifying the Board of all proposed changes, utilities will be expected to collaborate on proposed changes and will be required to notify Rate Counsel along with Staff of any intended program changes, including program modifications, budget shifts, and incentive changes."[40]

While the Straw Proposal's approach to program, budget, and incentive flexibility is a step in the right direction, the Company believes that the utilities should be afforded greater deference to make needed adjustments, and notes that requirements to obtain Staff notification and/or Board approval would create delays and potentially increase costs. Additionally, while ACE generally agrees that changes should be loosely coordinated with other utilities, each utility should have the ability to customize its program, as needed, to best meet the needs of its customers, to take advantage of unique opportunities in the service territory, and to apply best practices from the utility's experience.

[40] Straw Proposal, at 27.

According to a report from the U.S. Department of Energy ("DOE"), "[o]ne of the surest ways to promote utility energy efficiency programs is to set a target, through regulation or legislation, for utilities to achieve end-use energy savings. . . . Utilities are given broad flexibility about how and where to achieve the energy savings. Consequently, they can design and implement energy efficiency programs that: 1) meet operational needs, such as relieving transmission constraints, 2) meet specific customers' needs, 3) are lowest cost or most reliable, or 4) serve other goals."[41] Flexibility is key to the success of the policies embedded in the CEA: "Utilities are given broad flexibility about how and where to achieve the savings, in keeping with the performance-based regulatory approach." [42]

Flexibility is also tied to lowering costs. With maximum flexibility to make program and budget adjustments, a utility can pursue the changes that are necessary to meet the unique needs of its customers on a least-cost basis. According to DOE, "[t]he flexibility of utilities under performance requirements, and thus their ability to meet the requirements at the lowest possible cost, will be maximized if they are allowed to achieve the energy savings wherever and whenever they choose." [43]

Under the Straw Proposal, Staff proposes that utilities be able to shift budgets up to 10% of the individual program budget between or among programs in the same sector with Staff notification. For budget shifts ranging from 10%-20% between or among programs within a sector, Staff approval would be required. For budget shifts exceeding 20%, Board approval would be required.

The Company believes that the utilities should be afforded greater flexibility to make budget adjustments. ACE believes that greater flexibility in budget allocations will ensure better program performance, and that there could be times where it may be necessary to increase the program budget by more than 10-20%, such as if participation exceeds expectations or if incentives must be increased to meet the savings goals. To support flexibility, the process established to request budget increases and receive timely action must be streamlined to avoid program disruption. Therefore, ACE recommends the framework set forth in *Table 3*, below.

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[41] DOE, *State and Regional Policies that Promote Energy Efficiency Programs Carried Out by Electric and Gas Utilities* (Mar. 2007), at 67, *available at* https://www.energy.gov/sites/prod/files/oeprod/DocumentsandMedia/DOE_EPAct_Sec._139_Rpt_to_CongressFINAL_PUBLIC_RELEASE_VERSION.pdf.

[42] *Id.* at 75.

[43] *Id.*

Table 3

Category	Recommendation
Budget shifts within a sector	• up to 50% with staff notification but will commit that no transfer will result in a program shutting down • >50% requires BPU commission approval • No cap on # of adjustments
Budget shifts between sectors	• Up to 25% staff approval • >25% BPU approval
Incentive adjustments	• Up to 50% increase with staff notification and no limit on reduction of incentives • >50% requires BPU approval

I. Program Budget and Funding

- *The Cost-to-Achieve projections for utility-administered programs should not be used as guides or for evaluation purposes as they are superfluous to other evaluation techniques.*

Under the Straw Proposal, Staff proposes that electric utility filings should include cost projections within the following ranges:

Table 4

	Cost to Achieve ($/Annual kWh)		
State	**Low**	**Mid**	**High**
Commercial & Industrial	$0.32	$0.36	$0.39
Residential	$0.64	$0.71	$0.78
Total - All Programs	**$0.33**	**$0.37**	**$0.41**

	Cost to Achieve ($/Annual kWh)		
Utility	**Low**	**Mid**	**High**
Commercial & Industrial	$0.30	$0.33	$0.36
Residential	$0.60	$0.67	$0.73
Multifamily	$1.09	$1.21	$1.33
Total - All Programs	**$0.39**	**$0.44**	**$0.48**

	Cost to Achieve ($/Annual kWh)		
Co-Managed	**Low**	**Mid**	**High**
Residential	$0.13	$0.14	$0.16
Low Income	$1.89	$2.10	$2.31
Total - All Programs	**$0.23**	**$0.26**	**$0.28**

The Straw Proposal states: "The following cost to achieve scenarios are based on the program administration structure detailed in this straw proposal. The budgets and savings targets

for implementation were modeled based on nation-leading programs in Massachusetts and Rhode Island."[44] Rhode Island's EE programs were initiated in 2006,[45] and Massachusetts launched "Mass Save" in 2008.[46] As acknowledged by Staff, the programs in Rhode Island and Massachusetts are mature, nation-leading programs. Further, Staff's figures do not present an accurate picture of what is possible under the proposed program structure in New Jersey, as the data from Rhode Island and Massachusetts reflect energy savings from state standards and codes that differ from what is being contemplated here. Overall, these cost to achieve numbers are not an apt comparison for this moment in New Jersey's EE transition, as these numbers do not reflect the realities of starting up new programs under the Act. Ordering the utilities to implement programs in this cost range will be detrimental to meeting the goals of the CEA.

Additionally, the cost projections in the Straw Proposal are not realistic considering the suggested portfolio design limitations. The programs in Rhode Island and Massachusetts include a variety of program types, offering a range of more and less cost-effective measures. By comparison, the programs slated for utility management by the Straw Proposal include two of the most expensive EE programs to administer – Home Performance with Energy Star and a HVAC program. These programs provide historically expensive energy savings, and therefore, when conducting a cost per kilowatt-hour analysis, the tables above are not realistic.

To support this statement, the Company reviewed its sister utilities' (Pepco's and Delmarva Power's), program portfolios in Maryland. The program costs were analyzed between 2011 and 2019, which includes initial, mid- and mature-program years. The average annual cost per kilowatt-hour for the companies' Home Performance with Energy Star and HVAC programs is $3.45 per kilowatt-hour saved. Similarly, for a portfolio of commercial programs like the ones Staff proposes to be administered by utilities, the average cost is $1.09 per kilowatt-hour saved. These costs are more than five and three times the mid-point cost proposed for utility residential and commercial portfolios, respectively, and therefore are not realistic targets given the programs utilities will be approved to administer. Since NJCEP will continue to offer programs that provide less expensive savings, like Lighting and Products, the utilities will have little ability to offset the more expensive programs with greater energy saving at lower costs.

These cost targets are superfluous to the goal of producing cost-effective EE portfolios as the cost-benefit analysis would already account for the effectiveness of a program and portfolio to realize energy savings efficiently. Therefore, ACE concludes that these targets should not be used as guides, benchmarks, or evaluations for utility-administered programs.

[44] Straw Proposal, at 86.

[45] https://rieermc.ri.gov/resources/legislation/.

[46] https://www.masssave.com/learn/blog/residential/why-do-utilities-support-energy-efficiency-programs.

J. Benefit Cost Analysis/Cost-Effectiveness Testing

- *Utilize the SCT for the benefit-cost testing of programs to best account for non-energy benefits.*

In the Straw Proposal, Staff recommends that a Resource Value Test ("RVT") or similar approach be considered for the benefit-cost testing of programs. Staff proposes that over the Spring, Summer and early Fall of 2020, Staff will coordinate with the EM&V Working Group and stakeholders to consider development of a primary test, and that for the purposes of program development, the California Standard Practice Manual tests will be used, unless and until a RVT or other primary test has been developed.

ACE suggests that New Jersey determine the primary cost test that meets its key policy initiatives and properly accounts for the non-energy benefits the State is working to support. The Company suggests that the SCT is most appropriate as it quantifies the non-energy benefits delivered by EE programs. However, as energy savings become more difficult to achieve, the State will need to consider other ways to evaluate program impacts, such as greenhouse gas emissions, health impacts, and economic value. Therefore, ACE may be supportive of investigating a National Standard Practice Manual ("NSPM") approach in the next program cycle, if it can assist in meeting statewide goals. The NSPM allows for jurisdictions to consider policy and societal implications when defining cost-effectiveness. The result is often considered a "modified" Total Resource Cost test ("TRC"). While Maryland has not specifically identified the NSPM as a guiding document, the state does use a modified TRC when evaluating program and portfolio cost-effectiveness.

Any benefit-cost test should evaluate the incremental cost of the measures against the avoided energy costs and the customer realized energy savings, such as:

- Electric Energy and Demand Savings;
- Electricity Demand Reduction Induced Price Effects ("DRIPE");
- Participant Fuel Savings (including natural gas, oil and propane);
- Participant Water Savings;
- Avoided Lamp Replacement Costs;
- Participant Comfort;
- Reduced Electric Bill Arrearages; and
- Air Emissions.

K. Equitable Access in Energy Efficiency

- *Utilities are best-positioned to offer LMI programs, as they know the needs of the community and have existing relationships with community-based organizations and agencies.*

The Straw Proposal recommends the creation of an Equity Working Group ("EWG") in order to ensure the integration of equity concerns into all aspects of program administration and

implementation. This group would include representatives from each of the other working groups. Staff also proposes the development and evaluation of equity-related metrics "to assess the magnitude of impacts and progress towards State goals, using traditional savings metrics, as well as other relevant data, including health impact assessments."

Energy efficiency, as measured by the SCT, can be particularly beneficial to LMI customers, since studies indicate that home energy burdens are proportionally higher for LMI households than other households.[47] ACE is committed to providing EE participation opportunities to its LMI customers through its EE portfolio, and agrees that program portfolios should be evaluated for their ability to reach LMI customers. And as stated previously, ACE believes that Working Groups may be an appropriate mechanism to keep the program administrators, BPU, and vendors on target. As such, the Company believes that the Straw Proposal's approach to an EWG is reasonable.

The Company supports the goal of balancing flexibility with consistency, recognizing that common approaches can reduce transaction costs and customer confusion. However, ACE continues to believe that utility programs are most successful when tailored to the specific needs of customers in their respective service territories, even if that results in small differences in program design. For instance, pursuant to a demographic analysis the Company conducted of ACE customers, 26% of ACE households earn less than $35,000 a year, and 37% of households earn less than $50,000 a year. This circumstance creates opportunities to incentivize relatively low-cost, energy-efficient appliances that cost $80 to $100 more than the inefficient lowest-cost appliances. At a slightly higher price point, these energy-efficient appliances are nonetheless too expensive, without incentives, for many lower-income customers. By eliminating the cost difference between an inefficient appliance and an efficient one, customers will choose the more efficient model, and save on their energy costs, and help meet the State's EE goals.[48]

Utilities are particularly well suited to serve LMI customers. This is in part because utilities already have a direct financial and transactional relationship with those customers, one made more important by the share that energy costs make up among their budgets. LMI customers spend, on average, 6% of their income on energy, as opposed to a general average of 2.7%.[49] This is exacerbated by the older and less-efficient homes, appliances, and equipment that such customers tend to have: low-income households spend $1.23 per square foot on energy, compared to a general average of $0.98 per square foot.[50] Therefore, the relationship between utilities and LMI customers is a critical one that should be leveraged when implementing targeted EE programs.

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[47] *See* Fisher Sheehan & Colton, *Home Energy Affordability Gap* (2013), *available at* www.homeenergyaffordabilitygap.com/.

[48] *The Shift Model*, Dr. Frank Marti, *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=213819&DocumentContentId=25178.

[49] ACEEE, *Building Better Energy Efficiency Programs for Low-Income Households* (Mar. 2016), at 1, *available at* https://www.aceee.org/sites/default/files/publications/researchreports/a1601.pdf.

[50] ACEEE, *Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities* (Apr. 2016), at 11-12, *available at* https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf.

The utility-LMI customer nexus is also important given the unique challenges that LMI customers face. LMI customers face several competing priorities that may prevent their participation in EE programs. Because of this, many of the most effective program models for LMI energy efficiency utilize partnerships, where utilities coordinate with local, community-based organizations ("CBOs") that already serve the LMI community, including ones that provide health and safety services and other non-energy building repairs. These partnerships allow EE programs to avoid market confusion and political opposition, and provides opportunities for leveraging Weatherization Assistance Program ("WAP"), Low Income Home Energy Assistance Program ("LIHEAP"), and other sources of funding, partnering on customer smart phone apps and social media, and coordinating mutually beneficial cross-marketing and support. "Utilities can coordinate with existing efforts to serve low-income households, especially those that have a good reputation in the community and where households already go for help. These include Community Action Partnership ("CAP") agencies that run state and federal weatherization efforts, and food bank and food shelf networks for the distribution of energy-efficient products."[51] ACE's sister companies, Pepco and Delmarva Power, have extensive relationships with CBOs and CAPs in Maryland and would apply these partnership learnings to the ACE LMI programs.

L. <u>Evaluation Timeline</u>

- *Conduct EM&V on Program Year 2, so that results and lessons learned can be incorporated into planning for Programs Years 4 and 5 that takes place during Program Year 3.*

Under the Straw Proposal, Staff recommends an initial three-year program cycle, in which retrospective benefit-cost analyses, utility portfolio reports, updates to non-energy impacts and avoided cost considerations, and incremental updates to New Jersey's TRM will be conducted annually.

ACE believes a consistent and transparent EM&V process for all program administrators should be established. This process should be documented and referenced when reviewing program filings and throughout program implementation to keep evaluations on schedule. Such schedule will depend on the type of program.

In a three-year program cycle, each program should generally be evaluated once, but the particulars of specific programs could warrant different approaches. For instance, if a program is based on deemed values determined by a technical resource manual, where those values have been consistent and there have been no significant changes in technology, then an annual desk review of the program may be adequate. If there have been technology advancements or if more granular meter or system data is available, then a more routine and robust review should be applied.

Finally, evaluations should be managed so that they are not conducted concurrently to manage budgets, resources, and reduce program impacts. ACE notes that due to a normal time lag in data availability, in any given program year, a previous year's EM&V data will not be available

[51] ACEEE, *Building Better Energy Efficiency Programs for Low-Income Households* (Mar. 2016), at iii, *available at* https://aceee.org/sites/default/files/publications/researchreports/a1601.pdf.

for planning purposes aimed at improving the subsequent program year. ACE suggests that utilities should conduct EM&V in Program Year 2, so that results and lessons learned can be incorporated into the planning for Programs Years 4 and 5, which takes place during Program Year 3.

M. <u>Evaluation, Measurement, and Verification</u>

- *Evaluate energy savings on an* ex ante *basis to meet program goals and avoid excess program design and increased program costs.*

- *Apply EM&V findings prospectively to programs during future design phases to strengthen outcomes.*

Under the Straw Proposal, the Board's proposed retroactive application of EM&V findings, via use of *ex post* evaluated energy savings, runs counter to accepted use of EM&V for prospective planning and changes to program design. According to EPA, "EM&V results may be used prospectively to support electricity forecasting and system planning."[52]

The Company agrees that ongoing EM&V is a critical component of a robust EE program. However, ACE disagrees that metrics should be based on *ex post* evaluated energy savings, and instead recommends reliance on *ex ante* energy savings for this purpose. EM&V results should only be incorporated prospectively to programs during the design phase. Otherwise, savings results, and subsequentially savings targets, shift after evaluations are applied within a program cycle. To protect against these potential eroded savings, program designers build in more costs to program cycle plans to achieve more energy savings. This "padding" affects cost-benefit analysis and does not ultimately enhance the program or meet the portfolio objectives.

Avoiding the retroactive application of EM&V findings also aligns with practices in other states. For example, in Delaware, "[c]hanges in deemed energy savings or other deemed assumptions that result from program evaluation shall not be applied retrospectively, but shall be applied to the program and portfolio prospectively in the next program cycle."[53] Similarly, PacifiCorp's Evaluation, Measurement & Verification Framework for Washington states: "While energy efficiency evaluations will be retrospective in nature, the information obtained will be used to inform future conservation potential assessments, conservation plans, forecasts and targets."[54]

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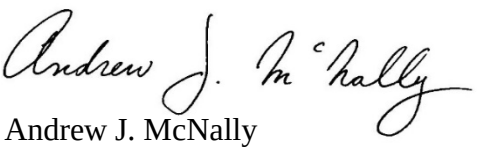
[52] EPA, *Appendix: Additional Detail on EM&V Approaches* (Jan. 2017), *available at* https://www.epa.gov/sites/production/files/2017-06/documents/emvframeworkpaper_2017-01-19.pdf

[53] 7 Del. Admin. Code § 2105.

[54] PacifiCorp, *Evaluation, Measurement & Verification Framework for Washington* (Oct. 2012), at 9, *available at* https://www.utc.wa.gov/_layouts/15/CasesPublicWebsite/GetDocument.ashx?docID=12&year=2013&docketNumber=132047

ACE appreciates the opportunity to comment on the March 20, 2020 Straw Proposal. The Company looks forward to providing further input on this important topic.

Respectfully submitted,



Andrew J. McNally

American Council for an Energy-Efficient Economy
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Aida Camacho-Welch April 13, 2020

Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor P.O. Box 350
Trenton, New Jersey 08625-0350

RE: Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs

Dear Secretary Camacho-Welch:

The American Council for an Energy-Efficient Economy (ACEEE) welcomes this opportunity to provide comments in response to the "Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs," (the "Straw Proposal") issued by the New Jersey Board of Public Utilities' ("BPU" or the "Board") Office of Clean Energy ("OCE") on March 20, 2020.

ACEEE is a nonprofit research organization based in Washington, D.C. that conducts research and analysis on energy efficiency. ACEEE is one of the leading groups working on energy efficiency issues in the United States at the national, state, and local levels. We have been active on energy efficiency issues for more than three decades and have actively participated in the Energy Efficiency Transition stakeholder engagement process in New Jersey to share our research and understanding of best practices.

The Straw Proposal takes important steps forward towards implementation of New Jersey's Clean Energy Act and fulfillment of Staff's objectives to increase access to all New Jersey residents and businesses and to expand job opportunities and increased economic benefits of energy efficiency for New Jersey. At a time of unprecedented crisis, the economic development supported by good energy efficiency jobs and bill savings for customers and businesses is more important than ever. The energy efficiency industry supported more than 36,000 workers in New Jersey in 2018 but ranked near the bottom of states on efficiency jobs per capita (47th).[1] By successfully implementing energy efficiency programs to meet the Clean Energy Act goals, New Jersey can significantly increase its energy efficiency workforce and stimulate the state's economy.

The Straw Proposal also makes progress on the other objectives set out by Staff for the energy efficiency transition. However, we recommend twelve improvements in our comments below to better meet a number of the stated objectives:

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[11] https://www.e2.org/wp-content/uploads/2019/09/NEW-JERSEY_2019_Final.pdf and https://e4thefuture.org/wp-content/uploads/2019/10/2019_EE_Jobs_Per_Capita.pdf

To increase accountability and reporting of spending and savings related to energy efficiency and peak demand reduction, we propose that Staff:

1. Clarify accountability mechanisms for NJCEP and align NJCEP schedules and timelines with utility targets and timelines
2. Consider a QPI, or other incentive mechanism, to encourage utility motivation and support for achieving the overall savings goal, including NJCEP programs
3. Strengthen codes and standards initiatives in the straw proposal and move from "additional state-led initiatives" to "state-administered core programs" section.
4. Strengthen evaluation, measurement and verification (EM&V) practices by:
    - Clarifying that the Statewide Evaluation Manager will be selected by the BPU and report to the BPU;
    - Clarifying that the EM&V Working Group may select contractors via competitive RFP and oversee some evaluations directly (e.g., for statewide programs; certain joint programs; etc.), and will develop guidelines for Individual Program Administrators (IPAs) to use in EM&V activities that IPAs directly manage, including guidelines for RFPs and contractor selection as well as methods and protocols for EM&V procedures and reporting; and
    - Clarifying the roles for Independent Evaluation Contractors in various circumstances, to facilitate effective project management and avoid conflicts of interest
5. Clarify that in the interim before a New Jersey specific RVT can be developed, the primary cost-effectiveness test shall be a Societal Cost Test
6. Over the long term, strengthen the Energy Efficiency Advisory Group, and bring proposed working groups into advisory group as subcommittees

To set New Jersey on a path to 100% clean energy by 2050 as laid out in the Energy Master Plan:

7. Include a QPI target that tracks greenhouse gas reductions or primary BTU savings
8. Provide specific pathways for energy efficiency programs to promote beneficial electrification in market segments where measures save energy, costs and emissions
9. Implement full revenue decoupling, or if that is infeasible, create a clear pathway and criteria for full revenue decoupling proposals in base rate cases

To reduce costs for energy saved through reliable and consistent program delivery, and reduce administrative costs passed through to ratepayers:

10. Strengthen program flexibility by eliminating prescriptive cost requirements
11. Ensure that allocation of savings approaches do not unintentionally prohibit savings from fuel oil and propane customers or from beneficial electrification measures

To decrease energy burdens for all ratepayers with a specific focus on lower income customers and environmental justice communities, and increase access to efficiency opportunities for customers and communities with low and moderate income levels:

12. For the period before the low-income QPI goes into effect, establish a minimum spending and/or savings target requirement for low-income energy efficiency programs.

Increase Accountability and Reporting of Spending and Savings

We commend staff for identifying increased accountability as a principle for the EE Transition. The Straw Proposal includes a number of elements, such as a clarified EM&V structure and updated goal setting structure for utilities, which support this principle. Below, we recommend changes to the Straw Proposal in order to strengthen accountability, EM&V, and expectations for all program administrators.

1. Clarify accountability mechanisms for NJCEP, align NJCEP schedules and timelines with utility targets and timelines, and further develop NJCEP's codes and standards efforts.

The "Application of Utility Targets" section of the Straw Proposal outlines a structure for utility target setting, with a set of principles for how Staff designed the targets. Those principles – including meeting CEA targets, responsiveness to individual potential by service territory, a focus on long-lived measures, input of all stakeholders on metrics, and transparency in performance review – are critical to the success of New Jersey's EE Transition. In addition, ACEEE recommends that the final order more clearly outline how those programs administered by New Jersey's Clean Energy Program will be set in a way that meets those principles, in particular:

- "All program administrators and stakeholders should have input on performance metrics; and,
- The process for reviewing the results of utility performance should be transparent, objective, and replicable."

We noted the importance of a focus on transparency and accountability for NJCEP in our February 11, comments Re: Energy Efficiency Transition - application of utility energy use reduction targets. ACEEE sees this as crucial for the success of New Jersey's programs for two reasons. First, our experience in hybrid states shows that those states with clear targets, reporting structures, and stakeholder input are more successful in delivering savings. Examples include New York (#5 in the 2019 *State Scorecard*), where the hybrid state program administrator, NYSERDA, files an annual Metrics and Financial Report compiling the performance in relation to the minimum goals established in a commission order establishing their Clean Energy Fund framework, and where goals are set in a transparent public process,[2] Maryland (#7 in the 2019 *Scorecard*), where the Department of Housing and Community Development files and reports on the same cycle as the utilities,[3] and Vermont (#3 in the 2019 *Scorecard*), where the statewide Efficiency Vermont and local Burlington Electric Department both complete Demand Resources Plans in a public proceeding with the PUC, file Triennial Plans, then report yearly on results.[4]

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[2] NYSERDA. Annual Investment Plan and Performance Report through December 31, 2018. Final Report May 2019.

[3] Department of Housing and Community Development - EmPOWER Maryland Program Limited-Income Program Plan 2018-2020. Case Nos. 9153-9157

[4] https://www.efficiencyvermont.com/about/annual-plans-reports

In addition, New Jersey has had a challenging record of performance in recent years while the state took the lead on energy efficiency program administration. Performance in the State Scorecard dropped from a ranking of #8 in 2007, with the state ranking #34 for net incremental savings from electric energy efficiency and #24 for gas energy efficiency savings for the 2018 program year.[5] While many factors may have led to this performance, one may be challenges with accountability, including significant delays in reporting and evaluation and a lack of clarity about how the BPU separates those staff who conduct oversight and address policy questions from those who administer programs.

The Straw Proposal's structure and process for applying utility targets relative to NJCEP targets is clear. However, unlike the Overall Annual Energy Use Reduction targets, which have a clearly articulated basis in the Potential Study, the division of goals *amongst* the NJCEP Savings Target and the Utility Program Savings targets in each service territory is not detailed in the record. Furthermore, as noted in our February 11th comments, the draft is not specific about the process and timing by which the board would determine program by program projected savings, nor what sources of data would be used to set those estimates in future cycles.

To support accountability and transparency in the use of ratepayer dollars and achievement of public policy goals by NJCEP, we recommend:

- For the Board's forthcoming decision, articulating in the record the basis for the division of savings between the NJCEP Savings Targets and the Utility Program Savings Targets for the 2022-2026 period.
- For future cycles, articulating a process for setting NJCEP Savings Targets and sharing initial proposed metrics for stakeholder comment alongside Utility Program Savings Targets.
- Setting multi-factor metrics to allow the Board to set QPIs for NJCEP that match its role in meeting multiple policy objectives statewide. Then, determining a weighting structure aligned with the NJCEP's policy goals, with more emphasis on those metrics which best support State policies, such as codes and standards or lead-by-example programs, or that encourage investment in those programs that may not naturally rise to the top based on costs or savings.
- Creating a performance review structure that mirrors[6] the utilities in timing and structure, with filings of program budget and performance as well as evaluations of actual performance in comparison to each established QPI. While filings for cost recovery will not be necessary for NJCEP, the results should be published in the same timely fashion as utility programs, should be available for public scrutiny, and should be used to update targets, inform decisions about roles and responsibilities between program administrators, and redesign and update programs.

Such transparency is as critical for NJCEP as it is for utility programs; as a steward of public funds, NJCEP should have clear metrics for how they will achieve public policy goals using the unique

[5] Berg et al. 2019 State Energy Efficiency Scorecard. https://www.aceee.org/research-report/u1908 .

[6] If the Board first determines projected savings from NJCEP and then holds utilities responsible for the remainder of the overall service territory targets, the process for NJCEP reporting may need to precede that for the utilities. However, filings and reporting for each should be on a coordinated scheduled to support parts of the process where one is an input to the other.

contributions of a state agency. Aligned expectations and accountability for all program administrators will help to encourage NJCEP to acquire all cost-effective potential in their areas of responsibility, provide clarity for and encourage coordination with other program administrators, and will provide the transparency needed for stakeholders to track progress toward CEA and EMP goals. ACEEE sees such transparency in goal setting and alignment with other program administrator efforts as a minimum expectation for hybrid administration.

2. Consider a QPI, or other incentive mechanism, to encourage utility motivation and support for achieving the overall savings goal, including NJCEP programs, as well as a framework and requirement for such coordination

The proposed approach for energy savings targets is somewhat unique, in that targets would be set as "overall utility-specific energy use reduction targets", but would be comprised of two components: "NJCEP annual energy savings target"; and "utility program annual energy savings targets." This sets up a dynamic where each of the two entities (NJCEP and utilities) are motivated to meet their own goals, but not necessarily motivated to ensure that the other party achieves their goal, or that the "overall" goal is met. In fact, there could be a potential for conflict between the two entities over who is able to capture particular savings opportunities.

In recognition of these concerns, ACEEE recommends that at least one QPI, or other incentive mechanism (e.g., perhaps an overall incentive "bonus"), be focused on achieving the combined goal, so that the utilities and NJCEP have incentive to cooperate and support each other's success. That cooperation and coordination will be essential in order to avoid conflicts and make programs workable, and to enable the achievement of overall goals. In addition to a QPI (or other incentive), we also recommend the BPU establish a framework and requirement for coordination between the utilities and NJCEP.

3. Strengthen codes and standards initiatives in the Straw Proposal and move from "additional state-led initiatives" to "state-administered core programs" section.

Codes and standards are a core function of market transformation initiatives and should be core initiatives of NJCEP.

New Jersey recently adopted more energy-efficient building energy codes for new construction and the EMP recommends further efforts to improve codes (p. 73). However, the state may not be capturing the full savings opportunities. This is because energy code compliance is far from 100% and can vary significantly by local government, which leads to remaining energy savings potential left untapped. The state's efforts can help fill this gap and result in significant energy savings. For example, the state could claim energy savings for providing energy code training, outreach, and technical assistance to local governments, builders and trade allies to support code compliance activities. In our most recent State Efficiency Scorecard, NJ only earned partial credit for code compliance studies because while a compliance study had been completed in the last five years it did not follow standardized protocols or

was not statistically significant.[7] We support staff's statement that the Board should procure an Energy Code Compliance baseline study and review and adopt as appropriate recommendations arising from such a study.[8] We also support the recommendation to form an energy codes review panel to examine how that subject should be treated. A critically important component will be to establish methodologies to determine what portion of savings in that category should be attributed to utility efforts, if any.

However, the Straw Proposal gives very limited attention and details to specific activities NJCEP plans to pursue regarding code support and appliance and equipment efficiency standards. We recommend that staff strengthen its codes and standards initiative because the state can capture significant energy savings from these efforts. In California, codes and standards have even accounted for 40-50% of energy savings in recent years.[9] This is a unique state example but serves as an upper bound of possible savings. NJCEP can also look to other states and regions that are promoting codes and standards improvements for energy savings, and how those jurisdictions attribute or determine the share of energy savings.[10]

For appliance efficiency standards, NJCEP can directly support the adoption of state and federal appliance standards by dedicating staff time to the development of statewide appliance standards and by commenting on Department of Energy proceedings at the federal level. The Northwest Efficiency Alliance (NEEA), which is a regional energy efficiency organization that develops market transformation programs, is a good model for New Jersey to follow. NEEA integrates standards into their program plans from the outset and have multi-year plans that have both program components and regulatory components. NEEA has dedicated staff that are fulltime on standards work. NYSERDA similarly has been actively engaged in state level appliance standards and would be another example. They have performed potential savings studies, participated in coalition meetings, and hired contractors to plan implementation. They also have a dedicated staff person and budget to hire contractors.

Likewise, NJ program implementers can play a role in the development of new state building codes, both by providing input in the code development process, but also by using the NJCEP-administered New Construction programs to lay the groundwork for future codes. For example, programs to encourage zero energy buildings can lay a foundation for possible future state requirements at these performance levels, as California, Oregon and N.Y. have been doing.

4. Strengthen evaluation, measurement and verification (EM&V) practices by:

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[7] https://www.aceee.org/research-report/u1908

[8] Straw Proposal, pg 53

[9] CPUC, California Public Utilities Commission. 2018. Energy Efficiency Portfolio Report. https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442459323

[10] See Cadmus, December 2018. "Attributing Codes and Standards Savings to Program Administrator Activities: Review of Approaches in Canada and the United States." Appendix CC of BC Hydro filing: https://www.bchydro.com/content/dam/BCHydro/customer-portal/documents/corporate/regulatory-planning-documents/regulatory-filings/rra/bch-f20f21-rra.pdf

a. **Clarifying that the Statewide Evaluation Manager will be selected by the BPU and report to the BPU;**
b. **Clarifying that the EM&V Working Group may select contractors via competitive RFP and oversee some evaluations directly (e.g., for statewide programs; certain joint programs; etc.), and will develop guidelines for Individual Program Administrators (IPAs) to use in EM&V activities that IPAs directly manage, including guidelines for RFPs and contractor selection as well as methods and protocols for EM&V procedures and reporting; and**
c. **Clarifying the roles for Independent Evaluation Contractors in various circumstances, to facilitate effective project management and avoid conflicts of interest**

More detailed comments on EM&V are provided below.

ACEEE is very supportive of the general framework for EM&V outlined in the Staff proposal on page 12, including:

1. The need to use a common set of protocols for measuring energy savings;
2. Allowing stakeholder input in the process for developing key EM&V assumptions;
3. Ensuring consistent measurement of outcomes and reporting; and
4. Establishment of an ongoing working group to update and improve analyses, as well as recommend program improvements that might result from information provided by EM&V

ACEEE is also very supportive of some of the specific approaches presented on page 12, including:

1. Assessing cost-effectiveness at the portfolio level
2. Pursuing development of a New Jersey specific primary cost-effectiveness test (e.g., a NJ "Resource Value Test")
3. Establishing a stakeholder process to gather input regarding development of a NJ RVT

We also support the general framework, objectives, and "guiding principles" for EM&V outlined by Staff, and find those to be consistent with what we have observed as best practices around the nation in our previous and ongoing monitoring of state approaches to the evaluation of utility ratepayer-funded energy efficiency programs (e.g., Kushler, et.al., 2012).[11]

We fully support the recommendation to use shared/common evaluators to evaluate programs that are co-managed or largely consistent throughout the state.[12] That will reduce EM&V costs and avoid duplication and confusion.

We support the strategy of including stakeholder engagement in developing key inputs for EM&V, and would further clarify that there should be a common and publicly available Technical Reference Manual (TRM) that should contain key inputs and assumptions for all evaluations conducted in the state.[13]

[11] Straw Proposal, pg 45

[12] Straw Proposal, pg 44

[13] Straw Proposal, pg 44

We are very supportive of the concept of establishing an EM&V Working Group, and have a lot of experience working with such entities.[14] However, we have a couple of recommendations for modifications to consider:

- Strengthen the provisions for stakeholder input from "may also engage" to a more structured and scheduled process for obtaining input from key stakeholders.
- Re-think and clarify any role for "Independent Evaluation Contractors." There would be potential conflict of interest if contractors who might bid on evaluation work are also involved in establishing methods, reviewing plans, developing RFPs and selection processes, etc. An alternative (which p. 47 suggests you are envisioning) would be for Staff to hire a specific evaluation consultant to assist the workgroup, and who would be ineligible to bid on actual evaluation projects in the state. Then Independent Evaluation Contractors who do actual evaluation work in the state could be invited to provide information/have discussions with the Working Group as necessary, but would not technically be "members" of the Working Group.

We support the tasks outlined for the EM&V Working Group outlined on those pages.[15] We would suggest adding a task related to having the EM&V WG selecting contractors and directly overseeing certain types of evaluations (e.g., evaluations of statewide programs; meta-evaluations of combined/overall effects across multiple programs; perhaps the evaluation of NJCEP programs; etc.) A single central entity, with desired credibility and transparency, would be ideal for performing that function.

We generally support the tasks outlined for the State Evaluation Manager (SEM).[16] We recommend clarifying here that the SEM will be selected by the BPU and report to energy efficiency oversight staff, not NJ CEP staff, in this role.

In addition, the roles for Independent Evaluation Contractors need some clarification, to address differences in circumstances depending upon which programs they are evaluating (i.e., NJCEP programs, joint programs, statewide programs, individual utility programs).[17] Roles and reporting obligations, etc. may vary depending upon which entity is hiring them and for whom they are technically "working" (e.g., who has authority to direct them to do something). The role of the EM&V WG will vary, depending upon the specific roles of any particular Independent Evaluation Contractor. These include roles for contractors selected by and reporting to the EM&V Working Group, perhaps for statewide or co-managed programs, vs. contractors hired by an individual utility for evaluation of that utility's programs. In some cases it would be desirable for the EM&V Working Group to select and oversee evaluation contractors directly, with utilities jointly furnishing the funds, and in other cases the Working

[14] Straw Proposal, pg 46

[15] Straw Proposal, pg 47-48

[16] Straw Proposal, pg 48

[17] Straw Proposal, pg 49

Group would provide guidance to utilities that directly select and oversee evaluation contractors (e.g., guidance on RFPs, evaluation and reporting protocols, etc.).

Comments on Benefit Cost Analysis/Cost-Effectiveness Testing are provided below.

5. Clarify that in the interim before a New Jersey specific RVT can be developed, the primary cost-effectiveness test shall be a Societal Cost Test applied at the portfolio level

ACEEE supports the objective of moving to create and adopt a New Jersey specific RVT.[18] However, the proposal's description of the interim period until that is developed could be problematic. Reference is made to the 5 traditional "California Tests", in the context of the stated requirement for achieving a B/C ratio equal or greater to 1.0. How that would be operationalized is unclear and could lead to practical problems. For example, energy efficiency programs virtually never pass the RIM test (as explained in the NSPM, the RIM test is not really a test of cost-effectiveness).[19] Of the five tests, conventional practice by states around the nation has been to use one of three tests: (Utility Cost Test, Total Resource Cost Test, or Societal Cost Test). Looking at the list of benefits outlined on page 51, the Societal Cost Test would clearly be the best fit. Best practice supports inclusion of appropriate non-energy benefits and costs, and the Societal Cost Test would best align with the benefits included in the CEA at N.J.S.A. 48:3-87.9(d)(2). We recommend using the Societal Cost Test (SCT) as the primary B/C test for New Jersey, until a New Jersey specific RVT can be developed. An SCT should use a societal discount rate[20], should take into account benefits of savings in all fuels (including those from fuel switching), and should include carbon benefits.

We support applying benefit-cost requirements at the portfolio level. That is increasingly the best practice of leading states, because it allows for flexibility in program design while still ensuring overall cost-effectiveness. We also support the allowance of B/C ratios less than 1.0 for specific programs deemed in the public interest, particularly for programs targeted to low-income customers, as well as other special circumstances such as pilot programs and emerging technologies. At least 40 states provide some form of special treatment for low-income programs in terms of cost-effectiveness, with many simply exempting low-income programs from cost-effectiveness requirements. That may be the simplest approach to that issue for New Jersey.

6. Over the long-term, strengthen the Energy Efficiency Advisory Group (EEAG) and bring proposed working groups (WGs) within the EEAG advisory group as subcommittees

Collaboration is a foundational principle for successful implementation of efficiency programs and becomes even more important with increased investment and ambitious policies, as New Jersey has established with the CEA. Structured stakeholder advisory groups are a best practice that puts this

[18] Straw Proposal, pg 50-51

[19] National Standard Practice Manual, Appendix C.2 "Limitations of the Ratepayer Impact Measure test"

[20] *Ibid.*

principle into action.[21] These groups offer an opportunity to: 1) build stronger efficiency portfolios that better reflect the needs of different customer groups, 2) leverage the expertise of efficiency business and service providers, and 3) align program development with public policy. Statewide collaboratives improve efficiency policy and program effectiveness and can improve timeliness of implementation when designed well.[22]

We commend the BPU for proposing working groups (WGs) in the Straw Proposal focused on designated topic areas. These groups should help expedite efforts to work through stakeholder issues and improve communication on the various topics. Going forward, we recommend that working groups be used as subcommittees to an expanded and strengthened Energy Efficiency Advisory Group (EEAG). The EEAG can serve as a starting point for a statewide efficiency collaborative but would need to be strengthened significantly to maximize its benefits. We recommend that the EEAG's participation be expanded as should its scope, giving it a dedicated budget and specific responsibilities to develop stakeholder consensus on key topics. An independent facilitator, unaffiliated with a consulting firm or contractor doing business with the state or a utility, would be important to support the design and execution of EEAG procedures, and support group efforts to meet objectives by providing supplementary fact-based analysis and research. These changes to the EEAG will require dedicated funding. We also recognize that these recommendations may require statutory changes.

An expanded and strengthened EEAG should make recommendations to the BPU. At a minimum, the EEAG should achieve the following two objectives:

1. *Support the BPU and program administrators by making it easier and faster to get stakeholder input, advice and collaboration on efficiency implementation matters.* BPU should rely on the EEAG and its subcommittees to work through key issues. The EEAG can act in an advisory capacity and through its subcommittees work toward consensus on key program implementation, policy, and technical issues, as needed.

2. *Make statewide efficiency results transparent and actionable by regularly summarizing progress toward energy efficiency progress goals and metrics*. The EEAG should summarize the impacts of efficiency programs delivered by utilities and NJCEP. The EEAG can then report back to regulators on behalf of all members with informal advice and commentary on progress toward goals.

The BPU's proposed EM&V WG would serve as one of the subcommittees. We recommend that the EM&V WG be responsible for oversight and input into decision making regarding EM&V considerations.[23] Having a well-designed working group stakeholder process to oversee EM&V activities and reporting can help assure that evaluation is independent and objective, and minimize subsequent disputes and litigation over reported results. Because EM&V is an ongoing activity --

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[21] See State and Local Energy Efficiency Action Network. (2015). *Energy Efficiency Collaboratives*. Michael Li and Joe Bryson. https://www4.eere.energy.gov/seeaction/system/files/documents/EECollaboratives-0925final.pdf

[22] Former Chairwoman Colette Honorable of Arkansas PSC noted that their statewide collaborative shortened the amount of time required to complete tasks.

[23] For example, see Michigan: http://www.michigan.gov/mpsc/0,1607,7-159-52495_53750_54587-217193--,00.html ; and Arkansas: and see Garland, Glen. "Collaborating for Success – How Arkansas Got it Right." 2008. http://aceee.org/files/proceedings/2008/data/papers/5_183.pdf;

occurring throughout the energy efficiency planning, implementation, and evaluation process--- there is need for continuous involvement by the EM&V working group throughout the process.

Set New Jersey on a Path to 100% clean energy by 2050

The Straw Proposal takes important steps to set New Jersey on a path to 100% clean energy by 2050. The Energy Master Plan ("EMP") found that maximizing energy efficiency and conservation is a critical component of New Jersey's pathway. In addition, the EMP includes a strategy focused on reducing emissions from the buildings sector, shifting toward being "largely decarbonized and electrified by 2050 with an early focus on new construction and the electrification of oil- and propane-fueled buildings."[24]

The energy efficiency programs offer an important vehicle for energy savings by fuel in electricity, natural gas, and unregulated fuels, and such savings are a critical first step for decarbonization. However, the infrastructure and workforce that deliver within-fuel savings can also be used to support market transformation towards fully decarbonized buildings. To that end, we recommend that the Energy Efficiency Transition be structured to enable building decarbonization, especially in the contexts of new construction and electrification of oil-and propane-fuel buildings identified in the EMP.

7. Include a QPI target that tracks greenhouse gas reductions or primary BTU savings

Specifically, ACEEE reiterates our comments from February 11th on the utility energy use reduction targets to encourage the addition of a metric for greenhouse gas (GHG) mitigation or primary BTU savings. Our research[25] finds that states that prioritize the greenhouse gas emissions reductions from their energy efficiency portfolios are increasingly tracking or utilizing fuel-neutral goals which may not specify the resources from which utilities must derive energy savings.

We are pleased to see that impact evaluations will include greenhouse gas emissions reductions, and that minimum filing requirements include a description of how proposed programs comport with New Jersey state policy including the Energy Master plan and the greenhouse gas emissions reports from the Department of Environmental Protection.

However, we believe that a focus on greenhouse gas in the QPIs themselves will best incent utilities and NJCEP to prioritize that outcome. We recommend either an energy goal, measured in British thermal units (Btus), or in a GHG reduction goal, measured in carbon-dioxide equivalents. Tracking in BTUs may be a good interim step, as it offers the opportunity to support those fuel switching activities that meet New Jersey's cost-effectiveness standards through energy efficiency programs. Although more complex to implement, tracking GHGs enables both expansion of possible eligible measures to include fuel switching from fossil fuels (including unregulated fuels), and prioritization of those energy efficiency measures, programs, and approaches that deliver the most GHG reductions. New York uses

[24] 2019 New Jersey Energy Master Plan Pathway to 2050, pg 13

[25] Gold, Gilleo, and Berg. 2019. *Next Generation Energy Efficiency Resource Standards.*

one overarching Btu goal, with sub-targets for electricity savings; Massachusetts includes GHG and source and site Btu goals alongside annual and lifetime energy savings targets measured in kWh and therms.[26]

ACEEE supports the approach in the Straw Proposal to track and report performance based on all metrics, but base incentives and penalties only on annual and lifetime energy savings in MWh and therms (th). Those energy savings goals align well with metrics specifically referenced in the CEA and are a good starting place as programs ramp up savings to meet CEA requirements. However, we recommend tracking GHG or Btu savings during this energy efficiency transition period to build capacity for using fuel-neutral or GHG-based metrics so that the state can more easily transition to such metrics for program administrators in future.

8. Provide specific pathways for energy efficiency programs to promote beneficial electrification in market segments where measures save energy, costs and emissions

The energy efficiency transition should serve as a tool for resource acquisition of currently available savings, and should support market transformation of emerging products and end uses that offer promise as greenhouse gas mitigation solutions. The Energy Master Plan highlights the importance of beneficial electrification in buildings to support the state's climate goals. The BPU should use Energy Efficiency transition to begin incentivizing utility buy-in to the states' broader climate goals, including an electrified buildings sector.

Our 2018 analysis found that high efficiency electric heat pumps and heat pump water heaters produce emissions reductions and energy savings in New Jersey for propane and oil boiler retrofits.[27] These measures also produced customer bill savings, with paybacks of 5-10 years for replacing propane boilers and 2-5 years for replacing oil boilers in New Jersey. Given these favorable savings and economics, ACEEE recommends that the Board require utilities to file WarmAdvantage and COOLAdvantage programs that include or pilot fuel switching options in homes with propane or oil boilers, to lower the cost of electrification technologies and build the workforce for implementing such measures with the most promising end uses first. Similarly, the Board should require that the state-administered new construction programs pilot all-electric options.

9. Implement full revenue decoupling, or if that is infeasible, create a clear pathway and criteria for full revenue decoupling proposals

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[26] NY PSC. CASE 18-M-0084 - In the Matter of a Comprehensive Energy Efficiency Initiative. "Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025". January 16, 2020.; MA EEAC. 2019-2021 Energy Efficiency Plan Term Sheet. October 19, 2018. http://ma-eeac.org/wordpress/wp-content/uploads/Term-Sheet-10-19-18-Final.pdf

[27] https://www.aceee.org/research-report/a1803

The Straw Proposal reflects the Staff's careful consideration of utility business model issues, noting the importance of ensuring that robust deployment of energy efficiency programs does not negatively impact a utility's bottom line, making these investments less attractive than traditional utility investments. Crucially, the Straw Proposal includes and considers each of the "legs" of the "three-legged stool": program cost recovery, lost revenue recovery, and earnings opportunities for performance in delivering energy efficiency savings.

The Straw Proposal takes important steps forward from the current state of affairs in New Jersey:

1. It continues to address cost recovery through a mechanism which allows for recovery of energy efficiency expenditures, with program investments amortized over seven years;
2. It partially addresses lost revenue recovery for electric utilities with a lost revenue adjustment mechanism. That mechanism includes three critical design features necessary for LRAMs, which often face implementation and ratepayer protection issues: earnings must be below authorized ROE, lost revenues must be based on independent evaluation, and lost revenue collection ceases with the next rate case order.[28,29] It also maintains the option for the more robust CIP mechanism for gas utilities.;
3. It builds a performance basis into the cost recovery mechanism, shifting from the current shareholder incentive which does not have a performance basis.

However, despite these strides, ACEEE remains concerned that the current cost recovery mechanism in the Straw Proposal does not leverage best practices from successful energy efficiency implementation around the country by relying on a partial as opposed to full, or symmetrical revenue decoupling mechanism. Consistent with Staff's principles for the cost recovery mechanism, we see three primary reasons that New Jersey should prefer full revenue decoupling to meet its policy objectives and the principles articulated for EE transition:

1. Decoupling is a superior policy to "encourage active utility participation in energy efficiency investments".

Decoupling is a rate adjustment mechanism that "decouples" the ability of the utility to recover its agreed-upon fixed costs (including allowed earnings) from the actual volume of unit sales that occur. There are a number of slight variations in how the computations can be done (e.g., normalizing for weather, adjusting for the number of customers, etc.), but the basic principle is that a "true-up" mechanism is applied once actual sales levels are known.

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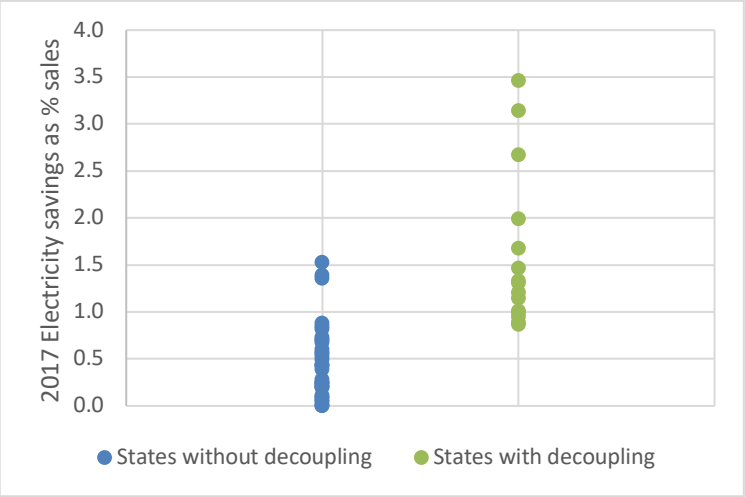
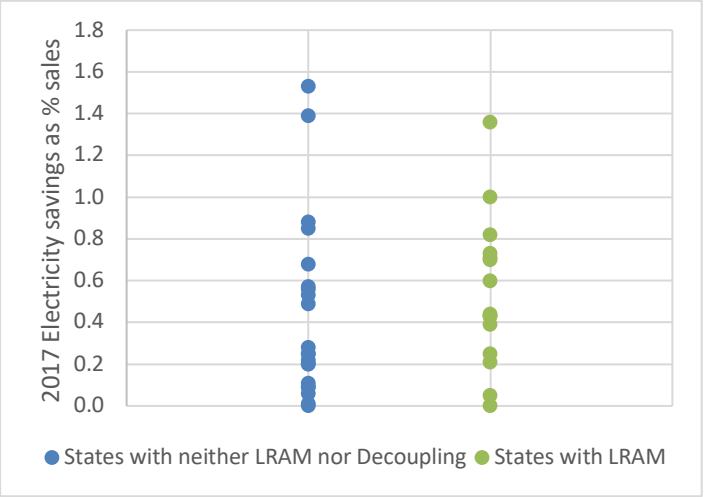
[28] Annie Gilleo, et al., Valuing Efficiency: A Review of Lost Revenues Adjustment Mechanism, June 2015, American Council for an Energy-Efficient Economy, https://aceee.org/sites/default/files/publications/researchreports/u1503.pdf.

[29] *Ibid*, pg 11: "Efficiency measures generate savings over time. Absent intervention, and with everything else equal, lower consumption will cause a utility to not collect its fixed costs of providing service until the next rate case. In a rate case, rates are set based on current or projected future consumption, taking into account already existing energy efficiency. LRAMs make a utility whole in the periods between rate cases. But if rate cases are few and far between, balances in a LRAM account can build up, because each year the utility is capturing the revenue lost not only from measures implemented in that year, but also from energy efficiency measures put in place since the last time rates were set. This so-called pancake effect would impose substantial additional costs on customers if many years pass between program implementation and the next rate case."

Decoupling not only eliminates the disincentive for direct utility energy efficiency programs, it also eliminates the inherent utility disinclination toward other public policy-driven energy efficiency initiatives (e.g., codes and standards) as well as mitigating the inherent utility inclination to pursue indiscriminant load-building in order to increase sales. LRAM applied to the specific portfolio of utility energy efficiency programs will not provide this broader effect on the utility's interest in pursuing higher sales levels.

This effect is seen in our research on the effectiveness of different policies in driving energy efficiency outcomes. An analysis of energy efficiency investments (normalized as a percentage of revenue) and savings (normalized as a % of sales),[30] finds that states with decoupling achieved about triple the average energy savings levels than states without decoupling. In contrast, while LRAM is an important step towards lost revenue recovery, its impacts are less certain; states without LRAMs in place reached similar electricity energy efficiency investment and savings levels than those with LRAMs. The figures below show a graphical illustration of these results.





While this is a simple comparison, and many confounding factors affect performance, most crucially the present of an energy efficiency resource standard such as the CEA, there is clearly a correlation between the presence of decoupling and energy efficiency investments and savings which is not present for states with LRAM.

2. Decoupling can be designed with stronger ratepayer protections than an LRAM.

[30] Analysis from Molina and Kushler 2015, Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future https://aceee.org/sites/default/files/policies-matter.pdf , updated from 2017 program year data in Berg et al 2018. https://www.aceee.org/research-report/u1808

The true-up mechanism for full revenue decoupling is symmetrical. That is, if sales were lower than forecasted (for whatever reason, including energy efficiency), then a slight upward adjustment in rates is applied to compensate the utility. Conversely, if sales were higher than forecasted, a slight rate decrease is implemented to compensate customers. In contrast, the adjustments for an LRAM are always slight upward adjustments in rates; there is not potential for symmetrical refunds to customers in cases where sales go up relative to forecast. A 2012 review of a decade of decoupling experience found that decoupling mechanism adjustments yield both refunds and surcharges; across all electric and natural gas decoupling adjustments, 62% were surcharges and 38% were refunds.[31] The choice of an LRAM would prevent any such customer refunds.

That 2012 study also found that decoupling rate adjustments are mostly small, within plus or minus two percent of retail rates.[32] Nonetheless, some jurisdictions have applied "caps" or "collars" on the possible adjustment to limit its magnitude and ensure that adjustments remain small (e.g., limit any adjustment to no more than 2% or 3% of the existing rate), a ratepayer protection we would recommend.

We have heard the current COVID-19 crisis cited in stakeholder meetings as a potential reason not to implement decoupling. However, ACEEE sees decoupling as an important ratepayer protection that would support New Jersey residents in these times. While in most parts of the United States, sales are down across all customers classes, in fact residential customer usage is generally increasing while many residents remain in place at home.[33] Under decoupling (assuming decoupling is by customer class, a common best practice), these customers would see refunds. In contrast, commercial customers largely have decreasing load in response to the crisis; while they would face decoupling surcharges, those could be limited in magnitude as described above by collars on the magnitude of surcharges or refunds.

In addition to collars that limit the magnitude of rate adjustments, decoupling can be subject to similar protections to the ones included for LRAM in the Straw Proposal. Decoupling could similarly be subject to an earnings test to require that ROE not exceed allowed ROE from the last base rate case by a set amount. In addition, decoupling could link recovery to achievement of energy efficiency targets; as in Avista's earlier mechanism in Washington state.[34]

3. Decoupling is a better tool for managing the "rate impacts related to the growth of energy efficiency investments" – as well as the likely rate impacts related to the growth of electrification efforts.

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[31] https://www.aceee.org/files/pdf/collaborative-reports/decade-of-decoupling.pdf

[32] https://www.aceee.org/files/pdf/collaborative-reports/decade-of-decoupling.pdf

[33] Daily Energy Insider. March 25, 2020. "PJM Interconnection adapts to new normal during COVID-19 crisis." https://dailyenergyinsider.com/news/24797-pjm-interconnection-adapts-to-new-normal-during-covid-19-crisis/

[34] Avista Utilities. (2009). Washington Utilities and Transportation Commission Docket UE- 090134.

The EMP cites beneficial electrification of transportation and buildings as necessary strategies for meeting the state's ambitious climate goals, and SB 2252 begins the process of significant investment in transportation electrification. While such electrification will be necessary to meet the climate mitigation challenge, electrification investments also have impacts on rates. Load growth from electrification will create a broader base of sales, which if captured in regular and effective rate cases could lower rates for ratepayers. However, such value is not guaranteed to flow back to ratepayers instead of utility shareholders. By instituting decoupling soon, New Jersey can create an automatic mechanism to transfer the value of its pending electrification growth back to ratepayers. Without such a mechanism, it is possible and perhaps likely that a lesser portion of the value of load growth and lowered rates will end up in the hands of customers.

Staff makes an important point that revenue decoupling affects a broader swath of utility ratemaking issues than those contained within energy efficiency and demand response program delivery. To that end, ACEEE would support a proposal that implements LRAM for electric utilities in the short term, with a requirement that utilities file decoupling as a part of their next rate cases. The text currently assumes that "Staff expects that the utilities will include modified proposals" and suggests that the mechanism be reviewed three years after approval of transition programs;[35] ACEEE recommends creating a clearer pathway and expectation for decoupling given its superiority as a tool for meeting the objectives of the cost recovery mechanism. This would be consistent with the principle that the mechanism incorporates a review to ensure the cost recovery mechanism is meeting the CEA goals. Given that some utilities have already proposed such mechanisms, we suggest the Staff and Board clearly articulate the bill and rate impact analysis and shareholder impact analysis required of the utilities in order to successfully design and implement decoupling.

Further, if Staff chooses to retain the LRAM for electric utilities in its proposal to the Board, we encourage the addition of one further ratepayer protection. Specifically, the Board should add a requirement that utilities demonstrate that sales were below forecast. Without such a protection, a utility could have the incentive to boost sales above the level originally forecast to allow recovery of authorized revenues beyond the revenue requirement outside of their energy efficiency portfolio.[36] By adding such a 'sales relative to forecast' test to the existing three ratepayer protections (the earnings test, strong EM&V, and requirement for regular rate cases to reset lost revenues), an LRAM could serve as a strong interim measure to get New Jersey started with lost revenue recovery.

Reduce Costs, including Administrative Costs, Through Reliable Program Delivery with Flexibility

We commend staff for noting in the Straw Proposal the importance of providing program flexibility to allow for innovation in program design and technology. Such flexibility is important to allow all program administrators to find least-cost solutions to effective program delivery.

[35] Staff Proposal, pg 40-41

[36] https://www.aceee.org/research-report/u1503

10. Strengthen program flexibility by eliminating prescriptive cost requirements and by allowing some shifting of funds when needed

First, we recommend that staff eliminate the requirement that utility filings adhere to a prescriptive cost scenario or projection ranges (p. 28, referencing Appendix E). Instead, we recommend that staff offer those cost ranges as rough guidance. The purpose of cost-effectiveness tests and evaluation is to ensure that program benefits outweigh costs. It would be overly burdensome and duplicative with the objective of cost-effectiveness requirements to request input on proposed cost ranges or requiring justification supporting nonconformance with these ranges. Additional restrictions such as implicit cost caps arbitrarily limit potential efficiency programs that would otherwise be cost-effective. ACEEE research has found that states with cost caps have found themselves restrained because less efficiency opportunities are below the cost ceiling and as a result have had to lower their energy savings targets.[37]

In addition, we recommend that utilities are granted some flexibility to shift funds between programs, perhaps at least for non-core programs (p. 26-27). BPU staff may want to look to recent changes in New York, where regulators enhanced flexibility by allowing utilities to shift funds between years and between programs within a portfolio.[38]

11. **Ensure that allocation of savings approaches do not unintentionally prohibit savings from fuel oil and propane customers or from beneficial electrification measures**

We recommend that cost sharing and allocation of savings for comprehensive programs on p. 28 promote savings for all customers regardless of fuel type (not only customers that save electricity and gas but also those that use unregulated fuels such as fuel oil or propane). This is an important equity consideration. Staff should clearly state that utility programs and NJCEP programs should fund energy efficiency improvements to the building envelope for customers regardless of primary heating fuel (for electric utilities, this would require that the program leads to at least some reduction in electric load such as air conditioning).

Also, as stated in our October 2019 presentation, ACEEE research has found that high-efficiency heat pumps are cost-effective now relative to propane and oil equipment.[39] Such beneficial electrification measures should be allowed in the energy efficiency portfolio when they save total energy in BTUs, reduce emissions, and reduce costs. The cost sharing and allocation of savings discussion should clearly note that beneficial electrification measures are allowed from non-regulated fuels when they meet those criteria.

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[37] https://www.aceee.org/research-report/u1908

[38] NY PSC. January 2020. CASE 18-M-0084 - In the Matter of a Comprehensive Energy Efficiency Initiative. "Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025". January 16, 2020.

[39] *Nadel 2018, Savings from Replacing Oil and Propane Heating with Heat Pumps, ACEEE*

Increase Access and Decrease Energy Burdens for All Ratepayers with Specific Focus on LMI and EJ Communities

The Straw Proposal has a number of important elements that help to increase access and decrease energy burdens for low and moderate income customer and environmental justice communities:

- Inclusion of a QPI for low-income lifetime savings to "promote equitable distribution of resources"[40]
- Commitment to improving transparency and collaboration with LMI communities through a continued stakeholder process to address equity throughout the spring and summer of 2020[41]
- Creation of an Equity Working Group, responsible for developing recommendations for integrating equity metrics and approaches in energy efficiency and peak demand response programs

However, these efforts are likely to be insufficient to meet the scale of the challenge facing low and moderate income communities in New Jersey. While there are many program design questions that are likely to be addressed by local practitioners in their comments, we offer one policy level recommendation to ensure a minimum level of energy efficiency services to low income customers:

12. For the period before the low-income QPI goes into effect, establish a minimum spending and/or savings target requirement for low-income energy efficiency programs

We support Staff's focus on serving low income communities in its principles for the EE Transition, as low-income households have historically been underserved due to a variety of factors despite often living in older less efficient housing. Low income programs also typically have a higher cost of acquisition than market rate programs, as noted in Appendix E of the Straw Proposal.

To ensure an appropriate focus on low income customers from all program administrators, we recommend a minimum spending requirement for low-income customers. Such spending requirements are common; 18 states require a minimum threshold or percentage of spending on low income energy efficiency programs.[42] Some break down underserved markets further; Maine, for example, requires at least 10% of funds go towards supporting low-income residents, and at least 10% of funds must support energy programs for small business customers.[43] Such a requirement would reinforce the importance of serving low income customers, bolstering the QPI for low income with a floor on utility and NJCEP achievement in the sector.

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[40] Straw Proposal, pg 35

[41] Straw Proposal, pg 29

[42] Berg and Drehobl, 2018. State-Level Strategies for Tackling High Energy Burdens: A Review of Policies Extending State- and Ratepayer-Funded Energy Efficiency to Low-Income Households. ACEEE Summer Study in Buildings Proceedings.

[43] L.D. 1559, "An Act to Reduce Energy Costs, Increase Energy Efficiency, Promote Electric System Reliability and Protect the Environment." mainelegislature.org/legis/bills/getPDF.asp?paper=HP1128&item=6&snum=126.

We look forward to continued engagement with the Commission on these issues. ACEEE welcomes this opportunity to provide comments.

Sincerely,

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Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

April 14, 2020

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states, "While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

   a) Home Performance with ENERGY STAR.

   b) WARMAdvantage.

   c) COOLAdvantage.

   d) Pay-for-Performance.

   e) Direct Install.

   f) SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

   a) Accessibility to all programs to all contractors in all territories.

   b) Incentive offerings must be indistinguishable across utilities.

   c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

   d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

   e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

   f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

   g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

   h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

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f) Question 6: How will the BPU ensure uniformity in applications, payment timelines and procedures?

g) Question 7: How will the BPU ensure that projects in overlapping gas/electric utility territories receive just one project QA inspection and ensure consistency?

h) Question 8: Would the BPU allow fuel conversions and if yes, how would they be managed?

3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

a) Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration....., it is critical that the program designs, including eligibility and evaluation requirements, ***are consistent*** across the state. ***Offering the same*** core programs across the state will streamline program offerings for specific market sectors, ensure effective marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

i) Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

b) Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

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   ii) Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

   iii) Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

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h) Statement 7: "Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval**. Any adjustments exceeding **40% of approved levels will require full Board approval**."

   i) Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues, what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Respectfully submitted,
Air Group, LLC

John C. Conforti, PE
New Jersey P.E. License #GE-045309

SINCE 1960

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

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We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

William Alber
President

Scott Thach
VP, Education
Alliance to Save Energy
1850 M St. NW, Ste. 610
Washington, DC 20036

April 13, 2020

New Jersey Board of Public Utilities
EnergyEfficiency@bpu.nj.gov

Re: EE Transition Straw

Dear Board of Public Utilities,

The Alliance to Save Energy enthusiastically supports the vision expressed in BPU's *Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reductions Program*s and its prioritization of energy efficiency in achieving the state's clean energy goals. We applaud its recognition of efficiency's role in reducing peak demand, lowering utility bills, creating jobs, and improving health, comfort and energy equity. We also appreciate the proposal's framework for collaboration between utilities and state entities in delivering statewide programs. As in our previous comments to the draft Proposal, we encourage the Board to consider the collaborative role that utilities have played—and can continue to play—in providing K-12 energy education as part of this vision.

The Alliance sees education as integral to the broader effort to inform energy behavior and ensure the benefits of a clean energy future reach all citizens and communities. Since 2015, our programs with New Jersey Natural Gas ("NJNG") and South Jersey Gas have demonstrated the value of engaging utilities in the effort. Their longstanding connections to the education community, ability to coordinate outreach and program offerings, and expertise in the evolving science of energy make them key partners in the development of a statewide education strategy.

New Jersey's efficiency and conservation program managers have longstanding ties with the state's environmental education community and are among its most informed and committed advocates. Our utility partners have helped us work in concert with Sustainable Jersey for Schools, the Association of New Jersey Environmental Educators, the Environmental Defense Fund, and the leadership of the school districts throughout their territories. These relationships have strengthened our own programs and broadened the resources available to the teachers and students we serve.

Our utility partners have been key allies in connecting academic learning with tangible efficiency gains, within and beyond the classroom. Beginning with STEM-based curriculum, these programs provide students the practical tools and skills to understand energy efficiency and drive measurable reductions in energy waste. These students form bridges to their homes, including those in low-income, underserved and hard-to-reach communities, sharing awareness of and access to vital efficiency programs. NJNG spearheaded our Residential Pathway activity, to ensure that the energy efficiency messages made it into students' household. Utilities' engagement has made our education programs more impactful, both for students and their communities.

We agree that the state has a leading role to play in establishing a uniform energy efficiency curriculum and materials; but here too, our experience shows that utilities are invaluable allies. Utilities can help ensure that the statewide curriculum aligns with state and local energy initiatives and evolves with new technologies and best practices. Our utility partners have helped us incorporate curricula around demand response and time-of-use rates and load-shifting and are providing support as we develop curriculum around environmental justice. They have given us the tools to provide video lessons and online learning platforms that make curricula more broadly available. During the recent COVID-19 crisis, they have allowed us to provide at-home materials to support teachers' and students' remote learning. And with most families spending extended periods of time at home and facing an increase in their energy bills as a result, this is an important opportunity to engage students and their families in strategies to reduce their energy burden. Through our utility partners, we are sharing these materials and energy conservation tips and raising awareness of available energy efficiency program resources. Because they are engaged in energy delivery and know the needs and challenges of their customers, utilities can help make sure that academic learning remains current, relevant and connected to students' lives.

For all these reasons, we urge the BPU to keep utilities engaged in K-12 energy education programs. Educated and empowered students will play a critical role in achieving the state's energy goals, and utilities are vital partners in delivering effective energy education. The Alliance will welcome any opportunity to aid the Board's efforts and are happy to sit down in-person to share the benefits of our experience. And we hope that utilities will continue to lend their expertise and leadership to this important work.

Best,

Scott Thach

P 202.857.0666 / F 202.331.9588 / 1850 M Street NW, Suite 610, Washington, DC 20036 / ASE.ORG / AllianceToSaveEnergy ToSaveEnergy

From:	Axel Miranda
To:	energyefficiency
Subject:	[EXTERNAL] Energy Efficiency Transition – Full Straw Proposal
Date:	Monday, April 13, 2020 3:19:23 PM

April 13, 2020

NJBPU
Post Office Box 350
Trenton, New Jersey 08625-0350

Dear Members of the Board,

As a lifelong advocate for the State's underserved communities, I write to register my misgivings concerning the NJBPU's Energy Savings Final Straw Proposal.

The plan, as proposed, is not inclusive of all New Jersey communities. It needs to remove barriers (coupling) so that utilities are completely incentivized to work with all residents on energy efficiency and create jobs in low- and moderate-income communities, not just the most affluent.

These families also bear the brunt of rising energy costs, spending disproportionately high amounts on their energy bills. That is why BPU needs to spread this transition out over a longer period of time to greatly lessen its economic burden on "all" consumers.

As New Jersey moves to a new energy paradigm, I hope the final energy efficiency plan will provide benefits that are accessible to all New Jersey residents. Thank you for your consideration.

Sincerely,

Axel Miranda

Axel Miranda | Managing Partner

Axel Miranda & Associates, LLC

C 609.462.7294

Ben's ProServ
Service with Integrity
BensProServ.com

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

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At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states, "While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

    a) Home Performance with ENERGY STAR.

    b) WARMAdvantage.

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    e) Direct Install.

    f) SmartStart.

    We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

    NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

    a) Accessibility to all programs to all contractors in all territories.

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e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

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3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each

statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

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Sincerely,

Stan Orzechowski
BensProServ
Heating, Air Conditioning, Plumbing and Electrical
3109 N. Mill Rd
Vineland NJ 08360
Office: 856-500-3222
Cell: 609-352-1717

Bloomfield

Cooling, Heating & Electric Inc

973-237-0505

MASTER HVAC #19HC00144800

127 Paterson Avenue, Little Falls, NJ 07424

April 10, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

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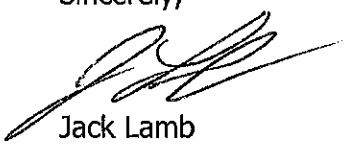

Jack Lamb
General Manager

April 10, 2020

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Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

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   i) Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

b) Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

   i) Question 1: When the document states "not required" does that mean they can vary or eliminate a current core program currently offered or that the utilities will be allowed to alter its current design?

   ii) Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

   iii) Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

c) Statement 3: "Following the filing of consistent programs, utilities should continue to collaborate in order to implement programs in a **similar** manner and should develop supportive processes, such as consistent procurement processes, procedures, requirements, and forms. This will be especially important in locations where gas and electric service territories overlap."

   i) Question: Is there a plan in place to ensure the collaboration between utilities happens? Is this an opportunity for NJ ACCA to assist?

d) Statement 4: "The Board identifies the programs that must be delivered consistently statewide by all utilities, and the individual utilities each hire implementation contractors to implement the programs."

   i) Question: How will the board ensure equity across all utilities and through implementation?

e) Statement 5: "Staff believes that, while all of these models may work for various programs, the key format for New Jersey is that the utilities collaborate, with **input from BPU and stakeholders**, on program design, requirements, etc. and deliver consistent core programs on a statewide basis."

   i) Question: Will the contracting community also participate, and will the outcome of this collaboration result in seamless consistency of programs across all utilities and will benefit the ratepayers, stakeholders and contractors equally?

f) Statement 6: “Stakeholders emphasized the need for programs to be nimble in responding to market shifts without undergoing a full regulatory proceeding. While **strong oversight of programs** must also be maintained, Staff recommends allowing utilities…… Utilities will be permitted to make minor adjustments to program design with Staff approval.”

   i) Question: To ensure consistency, will these nimble adjustments be implemented by all utilities at the same time?

g) Statement 6: “Budget Shifts Within a Sector: Sectors are any grouping of programs that focus on similar target markets, including but not limited to: residential, commercial and industrial, multifamily, low income, and small business. Utilities will be able to **shift budgets up to 10%** of the individual program budget between or among programs in the same sector with Staff notification; this applies only to an individual utility’s budget in situations where the shift would not result in a change to the utility’s overall budget. For **budget shifts ranging from 10%-20%** between or among programs within a sector **Staff approval will be required for proposed budget shifts exceeding 20%**.”

   i) Question: Could it be possible for one utility to adjust or exhaust a core program’s budget that would result in a ratepayer in an overlapping utility territory to be shut out of a core statewide program offering?

h) Statement 7: “Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval**. Any adjustments exceeding **40% of approved levels will require full Board approval**.”

   i) Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues, what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Brian Bovio
President/CEO
Bovio HPCI, LLC

To: **Aida Camacho-Welch, Secretary of the New Jersey Board of Public Utilities (EnergyEfficiency@bpu.nj.gov)**
From: **Kara Saul Rinaldi, Vice President of Government Affairs, Policy and Programs Building Performance Association**
Re: **Energy Efficiency Transition - Full Straw Proposal**
Date: **April 13, 2020**

As leaders in the residential energy efficiency industry, the Building Performance Association[1] (BPA) respectfully responds to the March 20, 2020 request by the New Jersey Board of Public Utilities (NJBPU) to provide comments on the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs. This response links to several studies and resources to assist the NJBPU staff.

Responding to the Adverse Energy Efficiency Job Impacts of the COVID-19 Crisis

In the midst of the current COVID-19 crisis and economic uncertainty, energy efficiency contracting companies across the state are in crisis and support for these workforces is now more important than ever. Faced with the COVID-19 stay-at-home orders, Governor Murphy's new order to cease non-essential construction projects, and the shutdown of utility energy efficiency programs, job losses in New Jersey's energy efficiency industry are significant. Many energy efficiency businesses are paid based on performance or per unit installs and cannot generate income when not allowed in residential buildings. Energy efficiency jobs are by nature local jobs and therefore every community in New Jersey is impacted. We need to expand, not lose, the quality workforce necessary to ensure the success of energy efficiency programs outlined in this Straw Proposal and achieve the New Jersey's ambitious clean energy goals.

BPA strongly urges NJBPU to take action now to address this urgent situation and protect the economic stability and viability of the State's energy efficiency industry. Steps need to be taken to support New Jersey's small energy efficiency businesses[2] to ensure they still exist once the public health crisis has passed. We believe there are actions utilities can take, with the support

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[1] The Building Performance Association is a 501(c)6 industry association dedicated to advancing the home and building performance industry by ultimately delivering improved energy efficiency, health, safety, and environmental performance of buildings. The Association was created to combine the expertise and resources of the Home Performance Coalition, Efficiency First, and Home Energy magazine.

[2] According to the 2019 Energy Efficiency Jobs in America report, 76% of energy efficiency businesses in New Jersey have fewer than 20 employees.

and direction of NJBPU and other State agencies, to support energy efficiency businesses during this public health crisis. (California regulators, for example, have approved 30-day advanced payments to efficiency contractors participating in utility programs.[3]) Three important options for maintaining our workforce are:

1) **Analysis of workforce impact coupled with communication of information and resources.** NJBPU could have utilities calculate the dollars involved in the now-shut programs and translate this to likely employment numbers, which will provide information on the impact of the shutdown. Additionally, the Department of Labor could track the unemployment claims made in the sector to the best of its ability.

2) **Immediate support for retention of staff, potentially via direct grants or via subsidized employee on-line training.** During the stay-at-home order in New Jersey, administrative staff, energy auditors, installers and other field employees could engage in training to retain and build skills. There are a number of existing online training courses that could be used, as well as others that could be quickly modified to support such training. This is an opportune time to engage in online worker education, which can simultaneously support worker retention and create certified professionals. **The State and utilities should provide funds for training organizations to reformulate training to meet the existing circumstances, if necessary, and the State and utilities should provide funding to energy efficiency employers for the salaries of workers undergoing online training.**

3) **Continue marketing and provide increased incentives to create a pipeline of work for when workers are allowed to enter residential buildings once again.** Marketing and outreach should continue, with a greater focus on customer education to prepare them to participate in energy efficiency programs – this will also help the struggling industry develop a pipeline for future projects to complete when the crisis is over. Other support for the industry should include low interest loan programs for consumers, additional support for marketing efforts, and acceptance of "virtual audits" during the pandemic. Contractors who work in programs where assessments, and more importantly where job pricing can be done remotely with customer assistance, should have access to significantly increased incentives for a limited time period tied to the duration of the shutdown. **NJBPU should also direct utilities to allow for partial payments to energy efficiency providers in advance of project completion.**

Workforce Development, Training, Curriculum

BPA appreciates the inclusion of workforce development, training, and energy efficiency curriculum programs in the Straw Proposal, as well as the recognition that these programs will help expand the state's economy while advancing New Jersey's environmental and energy

[3] https://www.documentcloud.org/documents/6825211-Exec-Director-Letter-Re-ESA-Contractors-During.html

reduction goals. Now more than ever, there is a key need for jobs training to ensure that there are enough qualified workers equipped to improve energy efficiency in buildings across the State. We urge the State to collaborate with stakeholders in the energy efficiency industry to ensure that existing resources and expertise are including in the development of new contractor training. We also welcome the development of energy efficiency curriculum programs and materials to help students understand the importance of energy efficiency and conservation—an important step to helping grow the Garden State's energy efficiency workforce of the future.

Underlining the importance of these workforce development initiatives, data shows that New Jersey has been underperforming in energy efficiency job creation and ranks 47th in the nation among states in per capita employment in this critical clean job creation category (as we have referenced in previous comments). According to the 2019 Energy Efficiency Jobs in America report, there were 36,206 New Jersey residents employed in energy efficiency in 2018—a significant number of jobs in a state with approximately 9 million residents. However, Energy Efficiency Jobs in America also indicates that 86,473 Massachusetts residents were employed in energy efficiency industries in 2018—more than twice the number represented in New Jersey, in a state with a significantly smaller population of less than 7 million residents. Massachusetts has adopted pro-job growth energy efficiency programs and policies. We therefore commend NJBPU for highlighting Workforce Development and Public Education initiatives in this Proposal, and we urge consideration of our other recommendations herein that would help expand energy efficiency in the State.

EM&V: Benefit-Cost Analysis/Cost-Effectiveness Testing – National Standard Practice Manual

BPA applauds the recommendation in this Straw Proposal that the Resource Value Framework outlined in the National Standard Practice Manual (NSPM) be considered to develop a single primary test that meets the needs of New Jersey for the benefit-cost testing of energy efficiency and peak demand reduction programs. In previous comments we have urged the NJBPU to use the NSPM to develop a "New Jersey Test." We thank the NJBPU for its decision to begin this process to ensure that cost-effectiveness testing is balanced, transparent, replicable, and prioritizes the policy objectives of the State.

As New Jersey begins the process of developing a single "New Jersey Test," please note that a NSPM for distributed energy resources (DERs) is forthcoming in the summer of 2020. This NSPM for DERs incorporates the fundamental elements and concepts from the NSPM for EE and will provide guidance on various single DER types (efficiency, demand response, distribution generation, distributed storage and electrification), as well as for multiple DERs (e.g., grid-efficient interactive buildings and non-wires solutions.) To the extent useful and applicable for NJBPU in the context of Benefit-Cost Analysis for other DERs, or as integration of efficiency with other DERs evolves, BPA is prepared to provide more specific information on the NSPM for DERs.

BPA commends the NJBPU staff for planning to coordinate with stakeholders over the spring, summer and early fall of 2020 to consider development of a primary test using the NSPM, and we encourage NJBPU to move swiftly to begin this process. We also urge the NJBPU to ensure stakeholder participation in the EM&V Working Group in order to share expertise and provide feedback for guiding the cost-effectiveness analysis process, including allowing for the opportunity to phone-into meetings and providing web-based presentations. We, and our National Efficiency Screening Project partners, look forward to working with you in support of this process.

Cost Recovery: ROE

BPA is concerned about the reduction of the utility ROE by 100 basis points, which will decrease the utility incentive to invest in energy efficiency programs. The result of this reduction will be that utilities earn less for investments in energy efficiency than investments in infrastructure. New Jersey should not be incentivizing poles and wires investments above energy efficiency, which would undercut the goals of the Clean Energy Act and 2019 Energy Master Plan.

In order to balance the rate impacts on customers, which was cited as justification for this ROE reduction, we encourage NJBPU to instead consider how supporting expanded energy efficiency, especially for low- and moderate-income households, can help to reduce overall utility bills for customers. We respectfully request that NJBPU review BPA's 2017 report, Weatherization and Home Performance: Recommendations for Mutual Success and Collaboration, on how low-income weatherization programs can be expanded to help low- and moderate-income families reduce their utility bills. The report aimed to identify opportunities and barriers in creating a more unified set of cost-effective residential energy efficiency programs for all income levels and to discuss the untapped potential for residential energy efficiency.

Access to Customer Energy Data

We appreciate that ensuring customer data access was one of the guidelines that NJBPU staff considered in determining the Program Administration Framework. The Straw Proposal notes, "Current and historic customer energy data should be easily and fully accessible to each customer and to parties they wish to disclose data to" (p. 21). BPA urges the NJBPU to require utilities to implement Green Button Connect My Data, including billing and account information data fields, to accomplish the dual objectives of increasing customers' access to their utility data, while also maintaining rigorous privacy and security standards—in accordance with **Goal 5.3.2** of the **2019 New Jersey Energy Master Plan** released earlier this year.

We would like to reiterate our recommendation from previous comments,[4] that NJBPU review the 2017 report Energy Data: Unlocking Innovation with Smart Policy from Mission:data

[4] In the matter of the 2019 Draft Energy Master Plan, submitted September 16, 2019.

Coalition, which is a useful resource that includes guidance for state policymakers on addressing data access, including issues of ownership and privacy. Michael Murray, lead author of the report, has offered these specific recommendations: NJBPU must carefully define what data is to be made available to customers and customer-authorized third parties, and should focus on the details of how a customer can exercise their right to share their data with third parties.[5]

Moving forward to ensure that consumer energy data is easily and fully accessible to each customer, and to parties they wish to disclose data to, is critical to pursuing the aggressive energy reduction targets necessary to achieving the State's goal of 100% clean energy by 2050. Contractors and third-party programs need consumers' energy consumption data for modeling (e.g., calibrating models to actual energy consumption) and EM&V. Monthly billing data is sufficient for many of these purposes, but interval data (e.g., hourly or 15 minute) generated by AMI can help utilities assess the time and locational value of the energy being saved and support peak reduction. The development of more granular load shapes would also support better integration of distributed energy sources, energy storage and grid-interactive technologies into New Jersey's electricity grid.

Data Standardization: HPXML

In addition to ensuring data access, BPA also believes support for data standardization is important to the success of the State's energy efficiency and peak demand programs. Standardization reduces the costs of collecting and exchanging residential energy data so that it can be more easily aggregated, shared, and analyzed to make decisions. We reiterate our recommendation from previous comments that NJBPU support data standardization in the residential energy efficiency industry by requiring the use of the national open data standard, Home Performance Extensible Markup Language (HPXML), for all residential energy efficiency programs.

AMI

BPA is encouraged that New Jersey is in the midst of a proceeding to evaluate opportunities to install AMI and make related infrastructure upgrades across the state in order to support enhanced energy efficiency programs; and we appreciate the recognition that "AMI will be crucial in enabling grid modernization efforts, quickly collecting and parsing data to enable more effective energy efficiency and peak demand reduction programs, and providing New Jersey with a host of other benefits" (p. 75). We encourage NJBPU to also look at ensuring AMI penetration across the residential sector as opportunities are evaluated. This would allow for data access and data monitoring that could improve the EM&V of residential efficiency programs. Programs that utilize AMI data can also emphasize savings when power is most expensive or polluting and, thus, energy savings are most valuable.

[5] Michael Murray, Mission:data Coalition (www.missiondata.io)

Smart Technology for Energy Management/Demand Flexibility

The Straw Proposal highlights that peak demand reduction programs and initiatives, including alternative rate designs and pilot programs, will be aimed at encouraging customer-controlled demand flexibility. BPA is supportive of these goals. We note, though, that residential smart technology measures—such as smart thermostats and home energy management systems—are not expressly considered anywhere in the Straw Proposal. We hope that this is an oversight and encourage due consideration of smart technologies and the demand flexibility they can provide.

As detailed in the Building Performance Association's 2018 report, Redefining Home Performance in the 21st Century: How the Smart Home Could Revolutionize the Industry and Transform the Home-to-Grid Connection, the use of smart technologies in homes is an important way to make the residential sector, and the homeowners and ratepayers who comprise it, a part of the energy grid solution. The first of ten recommendations in the report calls on states like New Jersey to look at their home performance retrofits programs to recognize the value of adding smart technology. The residential sector programs for existing homes in this Straw Proposal are focused on improving home performance based on building science principles and increasing the efficiency of HVAC and other appliances. Smart home technologies add a third efficiency strategy: better control. These technologies not only help achieve greater energy savings through machine learning and optimization, they can also be leveraged to support greater demand flexibility.

Both AMI and home energy management systems also provide extremely valuable byproducts: data and granular level monitoring capabilities. This data and monitoring capability provide an unprecedented ability to conduct near real-time quality control for home improvement installations. NJBPU should consider utilizing smart tools (including AMI and home energy management systems) to do near real-time evaluations, address poor performing or over-predicting contractors, and reward contractors whose work exceeds expectations. By reducing evaluation and paperwork costs, programs can reach more customers and have more opportunity to meet energy savings targets.

Smart technologies for energy management will provide customers with the necessary tools to support demand flexibility and peak reduction across the residential sector. We therefore urge NJBPU to ensure the inclusion of smart, grid-interactive technologies in the State's energy efficiency and peak demand programs, especially for the residential sector, so that these opportunities are not missed.

Residential/Multifamily Sector Programs: On-Bill Financing

Finally, BPA appreciates the references to on-bill financing for the residential and multifamily sector programs. These financing mechanisms enable homeowners to manage the upfront costs of residential energy efficiency upgrades and will help more New Jersey families lower their utility bills. Moving forward we encourage NJBPU to continue to consider policies and

programs that support low-cost funding and financing mechanisms for energy efficiency measures in the residential sector.

Thank you for this opportunity to submit comments. Please do not hesitate to contact me with questions.

Sincerely,

Kara Saul Rinaldi
Vice President of Government Affairs, Policy, and Programs
Building Performance Association
kara.saul-rinaldi@building-performance.org; 202.276.1773
www.building-performance.org

BRITTIN BUILT

510 Myrtle Ave.
Lindenwold, NJ 08021

4/6/2020

Brittin Built is a weatherization NJHP company that specializes in the air sealing, insulation, and testing of existing homes for itself, as well as hvac contractors both in and out of the Home Performance program to qualify for the program.

The following is our comments regarding the Straw Proposal offered for year 2020-2021.

The immediate notice is that the changes proposed are not to improve the existing program for the NJHP contractors, only to change it. The change of itself is of grave concern.

1. All prior references for program information, company marketing advertisements, program brand recognition, and sales and admin training will be obsolete. This results in throwing away years of ground work and funding of marketing for familiarity to home owners and contractors to join, loss of referrals and jobs on hold from the virus, while creating a heavy additional expense to start from scratch once offices open.
2. It becomes a research to see if the new program is sellable, what are the obstacles, and how long is the cash flow process? This is a loss of initial investment and time with funds already short.
3. This will result in not bringing employees back to hitting the ground running. This places field employees out of work. With the recent downturn of all NJHP companies, the ability to recover quickly is crucial.
4. This in turn would drive costs up in sales, marketing and administratively to now submit for 2 entities. Communication between 2 entities, inspections, qualifying requirements, and submissions. New proposal formats will need to be created and no reviews for customers to look at for validation. Scams are rampant at turmoil points and the NJHP had to establish a history of validation from previous clients to pave the road for future clients

I also have the concern as an insulator of bias.

1. Some gas utility companies require you to be a preferred contractor to participate. Insulators are unable to become a preferred contractor as we are not licensed hvac.
2. Some electric companies already have preferred auditors for their territory. They don't want or need multiple auditors, only ones they already have a relationship with.
3. Even if our company was able to get into a preferred status, would we be given the same treatments as a company selling gas or electric equipment when changing fuel types? Insulation has a history of having the most effective and highest return of investment, but it's not apart of the other already existing utility programs.

Lastly, the Straw Proposal proposed offer no insight of what changes would look like to reach the goals.

1. Should a utility company fail to meet the goals required to avoid penalty, it's a penalty that all contractors will pay in lack of work.
2. How can a decision be made by contractors to endorse changes when there are no details of how the changes plan on meeting the straw goals? What are the energy savings needed? How are they calculated? What is the incentive to the home owner and contractor to get it there to make it worth it to either one pursing it?

There are other pilots that have failed prior. The only details we have, and that we know is successful, is the one that we have now. The Home Performance program was directed with the thinking of coming from the Great Recession in creating jobs and opportunity and helping people effectively save, much like what it will be like when we open again. This is a proven model of economic and efficiency success and to ignore that for something unproven and unknown is by definition, reckless. These proposed changes are coming from the perspective of the peaks of economic highs. We are supposed to bond together to accomplish together, why are we then dividing apart at a time so crucial? It took a lot of ground work for all utilities working together to offer a simple program relevant to everyone that all contractors could help make known. Until precise information is given for anything else, an informed decision cannot be made. If we can't make an informed decision, than how do we justify job losses to our employees for a failed approach? From this, these proposed changes do not meet the basic requirements set by the Straw Requirements. It cannot under any predicted business model reach the required goals of impact in consideration of missing information and recent events.

Energy efficiency stakeholder meeting public comments 4/13/20

BPU straw proposal recommendations:

- Low income housing is primarily dwellings that are older and require more investment in order to achieve meaningful and lasting improvements as we pursue repurposing HUD's housing stock. The program needs to account for the age and condition of these dwellings otherwise it will not incentivize the appropriate investment for this targeted populations in rental assistance demonstration projects or ground up new developments.

- There should be a robust multifamily program to ensure helping those entities that don't pay their own utility bill like housing authorities.

- It is understood and thoroughly reported that low income families pay the highest in utility bills and much of it is due the condition of the dwelling so housing choice voucher tenants deserve greater access to these initiatives.

- We need to make energy efficiency investment as attractive as traditional investments or else utilities will not be able to take on such projects if they cannot recover their costs sufficiently. Program should ensure customer payback periods are as long as the standard 15 year and not 7 so it's possible the program provides relief.

- The investment needs to continue to be comprehensive and in-depth and with no out of pocket cost for the consumer.

- Funds for workforce development and training must be allocated in order to create more jobs for those who are underserved and underemployed given the projection that this initiative will create 4000 jobs throughout the state particularly for urban communities.

Carmelo G. Garcia, MSIS, IM CPM

edgarcia@ihanj.org

E.D. of IHA & former NJ 33rd district State Assemblyman

Dear Board of Public Utilities

We are writing to you today on behalf of New Jersey renters but especially low-mod income multifamily and housing authority tenants to voice our deep concern regarding the lack of energy efficiency programs for these households and to urge you to make rental energy efficiency initiatives a key component for housing authorities who pay utilities on behalf of tenants for future statewide energy efficiency efforts.

More than 35% of New Jersey households live in rental units. While rental tenants certainly span the socio-economic spectrum, there are 300,000 very low-income rental households in New Jersey with three-quarters of them spending an astonishing 50% of their income on housing alone. https://www.opportunityhome.org/campaign/new-jersey/ On top of that already startling number, low income tenants often pay up to 10% of their income on energy costs, and many suffer from energy insecurity where they struggle month-to-month to meet basic household energy needs.

For far too long, renters in our housing choice voucher programs especially low-income renters – have been forgotten when it comes to efforts that help them save energy and money. The rare exceptions provided by PSE&G with their Residential Multifamily Housing Efficiency Program and their Multifamily Smart Thermostat Pilot Program.

While PSE&G's efforts are laudable, we need a far larger and wider-reaching effort to help the hundreds of thousands of rental tenants that need it most. Governor Murphy signed the Clean Energy Act two years ago, yet low-income renters are still waiting for a comprehensive deployment that will allow them to access the energy and money saving opportunities that energy efficiency can provide.

Through their Clean Energy Future-EE filing, PSE&G has proposed to continue and expand their efforts with multifamily energy efficiency and smart thermostat installations. The utility has also proposed a new Residential Income Eligible Program and suggested other creative solutions, like making LED lightbulbs available to disadvantaged people at housing authorities and other locations.

Again, while admirable, PSE&G's proposal is just a small piece of the necessary energy efficiency efforts for low-income rental tenants in New Jersey. Every day that the State of New Jersey fails to act is one more day of crushing energy insecurity suffered by low-income renters and one more instance where we ask the people who can least afford it to shoulder the highest costs with no relief in sight.

The time is now to have utilities take the lead on enacting effective and broad energy efficiency programs that will help rental tenants save money and use energy more wisely. They are already a "known entity" in the state and have customer relationships with the multifamily building tenants and owners. Our electric and gas utilities also have the ability to quickly execute energy efficiency programs to start helping customers in need and offer incentives like on-bill financing and expert, turn-key installation of energy efficiency improvements for low income customers in need.

It is easy to see why effective, accessible and affordable energy efficiency programs are so important for New Jersey renters, who include the great majority of low-income households. For tenants who pay for their own energy costs, the benefits are obvious in terms of reduced usage and costs, but even renters who do not pay directly for energy will benefit from the comfort, convenience and safety improvements that energy efficiency upgrades provide.

New Jersey utilities already have an obligation to serve all of the state's residents, and the time has come to expand that responsibility to energy efficiency efforts, especially as they relate to low income residents who are on section 8 or live in public housing who need the most help. As you work to determine the most appropriate way to include energy efficiency in New Jersey's overall clean energy efforts, we would strongly encourage you to allow PSE&G to continue the good work they have already started and proposed on behalf of rental tenants. We also strongly encourage you to both encourage and allow other utilities to develop energy efficiency programs for the low-income rental customers that they serve.

Sincerely,

Carmelo G. Garcia, Executive Director of IHA, member of NJ NAHRO, NJAHRA

Ceres
Sustainability is the bottom line.

April 13, 2020

Secretary Aida Camacho-Welch of the Board of Public Utilities
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

RE: COMMENTS FROM CERES ON NEW JERSEY'S SPRING 2020 STRAW PROPOSAL FOR ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS

Dear Secretary Camacho-Welch:

I am writing to you on behalf of the Ceres – a nonprofit sustainability advocacy organization working with companies and investors to build a more sustainable global economy, including many members and partners with significant operations and facilities in New Jersey.

We believe the Spring 2020 Straw Proposal makes real progress towards helping the state achieve its energy and climate goals. We supported the development of New Jersey's Energy Master Plan and the prominent role of energy efficiency in its strategies for achieving 100 percent clean energy.[1] We thank BPU Staff for their efforts in developing the Straw Proposal and incorporating important revisions. We also appreciate the clarifications in the Straw Proposal regarding the program administration framework, describing which programs are to be administered by the utilities, by the state, or be co-managed. As Jeff Schlegel from the Ceres Energy Optimization Workgroup – a coalition of business leaders committed to promoting energy efficiency – mentioned during the April 1st stakeholder meeting, the Straw Proposal builds on a number of the state's priorities for addressing climate goals and energy issues. In this letter, we have outlined additional improvements that can be made to help the state achieve its goals.

Achieving the state's energy, economic, and climate goals has never been more important given the lessons we are learning in the current public health crisis we are facing as a nation. The aftermath of COVID-19 will require policies that will also promote economic recovery. Energy efficiency not only will help the state combat climate change, but these programs have a proven track record of creating jobs and providing shovel-ready opportunities for local workers. In 2019, New Jersey had over 33,000 jobs in energy efficiency.[2] Most of these jobs were with small businesses who are now desperately trying to survive in the face of economic uncertainty.

By establishing a strong and robust energy efficiency program, the state will send a clear signal to these businesses that it is committed to cost-effective climate solutions. But the economic

[1] Business Comments on the Draft New Jersey Energy Master Plan. https://www.ceres.org/sites/default/files/Final-BusinessLetter%20NJEMP%20PublicComm.pdf

[2] E2 "Clean Jobs New Jersey 2019," May 23, 2019 https://e2.org/reports/clean-jobs-new-jersey-2019/.

recovery benefits are not just for energy efficiency providers, they also extend to all customers, both businesses and consumers, who will realize savings on their energy bills at a time when resources are especially tight.

A 2017 Ceres analysis found that renewable energy and energy efficiency investments save U.S. companies $3.7 billion a year, freeing up significant capital that they can reinvest into their employees, research and development, and operations.[3] Clean energy resources help businesses hedge against volatile fuel prices while remaining competitive in a market where customers, investors, and employees increasingly expect companies to lead on sustainability. Energy efficiency is also the most cost-effective energy resource and is essential for achieving greenhouse gas reduction goals.

There are significant opportunities to increase New Jersey's energy efficiency and peak demand management in the coming years. The state can capture these opportunities and maximize its potential by ensuring that the implementation of the Clean Energy Act (CEA) fosters and supports effective energy efficiency and peak demand investments as intended. This can be accomplished by ensuring that the state's energy efficiency and peak demand programs set ambitious goals, receive robust and consistent funding with effective cost-recovery, are well-designed to meet business and consumer needs as well as the state's objectives, and are expeditiously implemented and pursued.

After carefully reviewing the Straw Proposal, we also believe there are a number of improvements that can be made on cost recovery, benefit cost analysis, program administration, marketing, budget flexibility, and transparency in planning and reporting. We recommend the following improvements to the Straw Proposal:

1. Cost Recovery

Ensure that energy efficiency investments are on an equal footing with traditional utility infrastructure investments. The proposed reduction in return on equity (now proposed to be 100 basis points, reduced from 200 basis points that was previously proposed) for energy efficiency investments would cause utilities to prioritize other investments and infrastructure upgrades over energy efficiency investments, jeopardizing the significant benefits that energy efficiency delivers for all New Jersey ratepayers. We support amortization of the energy efficiency investments to mitigate the near-term impacts on customer rates.

Utilities and business customers should both earn reasonable returns on their investments. New Jersey business customers stand to benefit as long as the programs are valuable and cost-effective and the returns are based on performance.

[3] Power Forward 3.0: How the largest U.S. companies are capturing business value while addressing climate change, https://www.ceres.org/resources/reports/power-forward-3.

Implement full, symmetrical revenue per customer decoupling. Full revenue per customer decoupling would reduce the financial disincentive for utilities to invest in energy efficiency and ensure that utilities support programs that maximize savings and benefits for customers. Decoupling provides better ratepayer protections as a symmetrical mechanism, is less administratively burdensome than a traditional lost revenue adjustment mechanism (LRAM), and severs the link with the throughput incentive that encourages utilities to sell more energy. If a LRAM is approved, the BPU should explicitly state that decoupling is an acceptable form of lost revenue recovery and allow utilities to be creative and bring best options forward for BPU review and consideration, in advance of the next rate case.

2. Benefit-Cost Analysis

Use the societal cost test as the primary benefit-cost test in New Jersey. The CEA requires a primary test and specifies environmental and economic benefits be included. The societal cost test is the appropriate test in the industry for including environmental and economic benefits. Also, the costs and benefits should be discounted using a societal discount rate, not the weighted average cost of capital, based on best practices and consistent with the use of the societal test. New Jersey should act in a manner consistent with the CEA and should not move away from considering environmental impacts in the benefit-cost analysis.

Plan and implement the Year 1-3 programs in a timely manner using the societal cost test for benefit-cost analysis. New Jersey businesses are in need of the new programs sooner rather than later, and consideration of a new benefit-cost framework should not delay timely development and implementation. If New Jersey wants to consider using the Resource Value Framework in the future, we suggest such consideration should be focused on future program years (Years 4-5).

3. Program Administration

Ensure effective and well-administered programs to maximize customer action and deliver success for the state. There should be clear roles and responsibilities, with competent and committed organizations in charge of program administration to meet customers' needs as well as the state's objectives. We appreciate the clarifications about administrative roles set forth in the straw proposal. And we support the majority of the program administrator assignments in the straw proposal, including utility administration for many of the core programs serving customers directly, and state administration where strong coordination with state policy-led or market transformation efforts is beneficial.

Consider changing the administration of three customer-facing programs that also engage the design community from state administration to utility administration: C&I Pay for Performance - New Construction; Combined Heat and Power - Fuel Cells; and Multifamily - New Construction (pgs. 68-69). Utility administration would ensure early identification of new projects and opportunities, coordination with other utility services, and beneficial engagement with the design community. These construction programs are essential for pushing the envelope

using best practices and significant new advancements in systems and buildings, often long before they become widely adopted in the market.

Consider having the state focus its efforts primarily on stronger building codes and standards. The state should use this opportunity to review these crucial state policies to lock in the advancements and maximize performance through timely implementation of ambitious codes and requirements. Effective codes and standards can also reduce what otherwise would be higher program costs in the future (by having to provide incentives in the future for energy savings performance that could have been achieved through codes and standards requirements). Effective, ambitious codes and standards are crucial for achieving New Jersey's climate and energy goals, and we recommend that the state focus on pursuing the challenges here with a strong commitment and the resources necessary to achieve success.

4. Marketing

Conduct an assessment of brand awareness and performance in the market in 2020.We understand the value of consistent statewide marketing and engagement, and we support a co-managed approach with clearly-defined roles for the state and the utilities in marketing. We also want to make sure the brand will be effective as possible going forward, and therefore we recommend an assessment of brand awareness and brand performance be conducted in 2020.

5. Budget Flexibility

Budget shifting. Program administrators should have the flexibility to shift funds to programs where there is significant, higher-than-initially-planned market activity, and away from programs where market activity is less-than-initially planned. The program administrators, whether the state or the utilities, should have the flexibility to shift funds to programs where there is the most need and highest market response. Fund-shifting policies and limits should not result in preventing businesses and consumers from receiving the energy-efficiency services that they need and are paying for.

Eliminate the cost caps on energy efficiency that result from the application of the cost-to-achieve factors proposed in Appendix E. The BPU should not implement cost caps on energy efficiency -- the energy resource that is required to be cost-effective and that is lower cost than other climate solutions. Cost caps can result in disruption of the marketplace and lead to start-stop crises that harm businesses who deliver the services as well as the customers who desire the services.

6. Transparency in Planning and Reporting

Ensure clear transparency in planning and reporting, which are important for communication to customers and stakeholders, and to provide the necessary information to document and continuously improve the design and implementation of programs. Businesses and consumers are the ultimate funders of these programs, and we need to know how the programs

are performing and how much they cost. Transparent reporting will also assist all parties in understanding what has worked well and what can be improved, thereby helping to ensure that New Jersey customers receive effective and cost-efficient services.

Thank you for New Jersey's continued leadership in advancing a clean energy future. Effective energy efficiency and peak demand programs will benefit New Jersey's economy, its communities, and the health of its citizens and businesses. At this time of growing economic uncertainty, strong energy efficiency programs will send a clear signal to businesses that they will not only achieve savings on their energy bills, but also should continue to invest in energy efficiency and create local jobs.

Please do not hesitate to call on us if we can provide additional information and share our experience as this important public process progresses.

Sincerely,

Alli Gold Roberts
Director, State Policy
Ceres

SUBMITTED ELECTRONICALLY

Aida Camacho-Welch
STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
mailto:EnergyEfficiency@bpu.nj.gov

RE: Comments of Clean Energy Group to New Jersey Board of Public Utilities - **New Jersey Energy Efficiency Transition Docket No. QO19010040**

Dear Ms. Camacho-Welch:

Clean Energy Group (CEG) is pleased to submit this letter to provide the New Jersey Board of Public Utilities (NJ BPU) with comments on the Energy Efficiency Transition – Full Straw Proposal released as part of New Jersey Energy Efficiency Transition Docket No. QO19010040**.** CEG is responding to the NJ BPU notice requesting public comment that was issued March 25, 2020.

Specifically, CEG is commenting on the potential for behind-the-meter (BTM) energy storage to be included in the NJ Energy Efficiency Plan as a demand peak reducing measure.

Clean Energy Group is a national, nonprofit advocacy organization working on innovative policy, technology, and finance strategies in the areas of clean energy and climate change. Since 1998, CEG has promoted effective clean energy policies, developed new finance tools, and fostered public-private partnerships to advance clean energy markets that will benefit all sectors of society for a just transition. CEG has advocated, both in New Jersey and in other states, for the inclusion of behind-the-meter energy storage as a peak demand reducing measure in state energy efficiency plans.

We worked to support the development of the ConnectedSolutions program within the Energy Efficiency Plan in Massachusetts, which allows utilities to contract with energy storage customers to aggregate behind-the-meter storage services for peak load reduction during peak regional load hours. This program has now been adopted in both Massachusetts and Rhode Island and is under development in New Hampshire and Connecticut. We have provided information on this program to NJ BPU.

An aggregated battery program offered through a state energy efficiency plan (such as ConnectedSolutions) provides many benefits over a customer demand charge management (DCM) model. Chiefly, it allows for better alignment of BTM load reduction with regional peak demand hours. At the same time, it provides storage customers and developers access to reliable, bankable revenue streams through contracts with utilities for battery services. And, through

incentives and adders established by the state, such a program can support numerous state energy goals, such as enhanced resiliency, increased renewables deployment, and cleaner peak power.

New Jersey has already taken the important step of identifying peak demand reduction as a primary goal of the energy efficiency plan. Given the state's ambitious energy storage procurement targets, now would seem to be the ideal time for the state and utilities to incorporate storage into the EE plan, as this would support both the state's peak demand reduction goals and its energy storage goals.

The primary shortcoming of the current energy efficiency straw proposal in this regard is that it appears to push off active demand reduction measures, where energy storage would likely fit, into future program years. As stated in the straw proposal's Metrics section:

> *During initial years, in metrics and in QPI results, demand savings will reflect only "passive" peak demand savings resulting from efficiency programs and will not include active demand management/demand response savings. The inclusion of active demand savings in the metrics may be considered in future program years.*

The straw proposal goes on to instruct utilities: "utilities should file pilot or full peak demand reduction programs by year 5."

In addition to relegating active demand savings to future program years, the straw proposal seems to make these programs optional, defining them as "additional initiatives" rather than core programs:

> *Each New Jersey investor-owned utility will be required to administer all core programs and may propose to the Board additional initiatives that they would administer…. Core programs refer to base programs that will be critical to meeting energy efficiency and peak demand reduction targets and will provide the main energy efficiency opportunities for all customer segments throughout the state…. Additional initiatives refers to auxiliary programs and program features which will enhance the core programs' success, explore new technologies, and/or focus on additional energy policy goals. These initiatives may include pilot programs that are not yet ready for statewide implementation but could be viable in a specific service territory. Each utility's filing should include a peak demand management program as an additional initiative, either as a part of the first filing or in subsequent filings.*

Because the straw proposal never specifically addresses energy storage, it is hard to know exactly which program in the straw proposal might house a storage initiative. But based on how storage has been addressed in other state energy efficiency plans, the peak demand management program seems the likeliest contender.

CEG urges NJ BPU to specifically address the role of energy storage in the next iteration of the energy efficiency plan; to require peak demand management to be addressed by utilities with the same urgency as core programs; and to include active demand savings in program metrics from the inception of the program.

Further, CEG urges NJBPU to incorporate program elements relevant to energy storage that have been adopted by energy efficiency program administrators in Massachusetts and Rhode Island. Some of these elements are addressed in our recent blog and last year's report on energy storage as an efficiency measure.

CEG appreciates this opportunity to comment and will be happy to provide more information to NJBPU upon request.

Sincerely,

Todd Olinsky-Paul
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Clean Energy Group
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April 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Submitted via email: EnergyEfficiency@bpu.nj.gov

Re: CPower Comments on Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Reduction Program.

Introduction

Enerwise Global Technologies, Inc. dba CPower (CPower), submits these comments in response to the Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs. With these comments we hope to provide the Board of Public Utilities with the information required to create a thriving market for energy efficiency in New Jersey.

The CPower is a leading national curtailment service provider active in the PJM market. CPower provides thousands of MWs of demand response capacity and hundreds of MWs of Energy Efficiency derived capacity in the PJM market.

CPower offers limited suggestions as follows:

1. Utilities should not be required to offer EE capability into PJM's capacity market. Utilities are ill suited to managing risk and maximizing the benefits of market participation.
2. Commercial and Industrial programs should remain State administered.

Below we have elaborated further on each of these points.

Utilities should not be required to bid Energy Efficiency into PJM as a Resource because there are already successful businesses in New Jersey who operate within this market. Allowing current participating business to continue running PJM energy efficiency programs is the least cost and most effective manner to implement these programs as there is a high learning curve to enter the PJM Market. Entering this market requires high upfront costs that these businesses have already absorbed and have preestablished relationships and experience backed knowledge of how the business works within complex state and federal regulations. Additionally, while there is substantial

activity provision of EE derived capacity in New Jersey EE, there has been no evidence to suggest that the current programs are unsuccessful or inefficient. In fact, they have excelled in a regulatory challenging and unique market.

Participation in PJM capacity markets require market knowledge and acceptance of risk to maximize the benefits of participation. Participation in PJM's Forward Capacity Market (FCM) is a complex endeavor. There are multiple auctions with widely varying prices. The timing elements of offering energy efficiency products create risks and complexity. Energy Efficiency providers such as CPower are experienced and willing to take higher risk strategies that will have a much greater value than utilities. That is because it is inconceivable that the utilities would be permitted to take on significant risk in order to manage effectively their participation in the FCM. Yet a low risk bidding strategy is highly likely to result in very low value derived from FCM for New Jersey customers. One reason for this is that EE projects are not eligible for FCM participation until the delivery year after the year in which they are installed, several years *after* the initial auction. Another issue is that EE has only four years of capacity eligibility.

These two issues combine to make a low risk bid strategy a very low value activity. For example, a project installed in October of 2020 is first eligible for capacity payments in June of 2021. A low risk offering of the project could take place in an Incremental Auction in March of 2021. However, this auction is expected to clear at a fraction of the initial, Base Residual Auction (BRA) price for 2021-22 of $60,491/MWyr. The most recent price for the 2021-22 delivery year from the September 2019 auction had a clearing price of just $9,125/MWyr. This pattern of Incremental Auction prices being substantially lower than BRA prices is long standing and the March 2021 auction is not expected to change. The project can be offered in next available auction for each of the next 3 delivery years but would only gain maximum BRA value in the May 2021 BRA for the 2024-25 delivery year because this is the only delivery year for which the auction conducted after the commissioning of the project. If the 2021-20 pricing pattern were to persist through the 4 year capacity life of the project, a low-risk utility strategy would more than half of the capacity value unrealized. This creates challenges and regulatory risks for utilities that are compelled to offer into FCM.

While there is nothing in PJM rules to prevent offering of prospective projects for in the BRA for which they may be first eligible, such offers posed the risk that the projects might not be built, or qualify for the committed capability, exposing the utility to non-performance penalties. If a utility chose to participate in the PJM market prior to confirming EE MW reductions, the utility would face a 100% revenue forfeiture for any MW deficiency plus an additional 20% out-of-pocket penalty if the project failed to meet expectations. Competitive providers can take risks by offering into each BRA and using those cleared offers for the full 4 years of eligibility and return much greater value to the

state. Moreover, some utility risks may be higher than risks for competitive providers if utilities are required to segregate program performance and costs, leading to smaller offer segments that can be difficult to balance and explain to regulators. Competitive providers are not bound by Commission oversight and a need to segregate program costs and revenues.

In particular, Core programs targeted at Commercial and Industrial segments should be exempt from utility offer requirements. The Strawman posits that "Utilities are well suited to administer the following commercial and industrial programs, due to their direct relationships with commercial and industrial customers, their understanding of customer energy use data and energy savings opportunities, and their knowledge of this sector's energy needs and challenges." Existing EE providers also have built relationships with these sophisticated energy advisors, and the Commission would be better served by ensuring non-discriminatory access to customer data if it wishes to ensure a competitive and EE program. There is nothing magic about utilities' ability to interact with customers.

Commercial and Industrial programs should be state administered.

As noted above, the strawman posits that "Utilities are well suited to administer the following commercial and industrial programs, due to their direct relationships with commercial and industrial customers, their understanding of customer energy use data and energy savings opportunities, and their knowledge of this sector's energy needs and challenges." This opinion appears to be the basis for moving Commercial and Industrial programs from State managed to utility managed status. However many, if not most such customers retain their own advisors and experts who compete to provide energy services rather than relying on their utility. Requiring utilities to replicate this capability via core responsibility place utilities in competition with independent providers and duplicates capabilities that already exist. We urge that the final Program document avoid this pitfall by leaving the Commercial and Industrial programs with state administration. We note that if this recommendation is accepted, the focus of the first recommendation - not requiring utility participation in capacity markets - is somewhat moot.

We appreciate the opportunity to comment on the Energy Efficiency Strawman.

Thank you,

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crossstate
Credit Union Association

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs

Dear Ms. Camacho-Welch:

We write on behalf of New Jersey's 155 credit unions and their more than one-million members in response to the Request for Comments on the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs.

On January 17, 2020, we submitted comments on the original straw proposal detailing the success of the credit union clean energy loan program ("cuGreenLoan"). cuGreenLoan is a no- and very low interest lending program to better enable New Jersey homeowners to make energy efficiency improvements.

The program offers homeowners a 0% (zero) loan up to $10,000, or a 0.99% loan up to $15,000, to finance needed energy efficiency improvements. The loans are provided by local New Jersey credit unions that receive a buy-down from the state in the amount of the interest that would normally be charged.

The interest rate buydown program is offered through the NJCEP's Home Performance with Energy Star program (HPwES), has a proven track record, and ranks as one of the most successful programs of its kind in the country.

The program is beneficial for New Jersey homeowners, local contractors, the state's member-owned, not-for-profit credit unions, and the HPwES program.

To date, New Jersey credit unions have financed some $27 million in residential home energy improvements for more than three thousand homeowners, including nearly $2 million in projects when the homeowner was unable to obtain financing from their utility.

Given the strong track record of success, we were surprised that the cuGreenLoan program was not mentioned in the original Straw Proposal. The lack of consideration combined with the recommendation that administration of the HPwES be moved under the utilities, raises the troubling prospect that the Straw Proposal was, by default, also recommending the program be eliminated.

We have shared comments urging, not just the continuation of the cuGreenLoan program, but offered suggestions to build on its success and expand into other areas of much-needed energy efficiency investment. Unfortunately, we see that there continues to be no mention of the program in the current Straw Proposal.

Abolishing the program would be highly detrimental to homeowners, lenders, local contractors doing the residential work, and the HPwES program.

Homeowners deserve the option to do business with the local credit union with which they have a relationship. Our track record demonstrates that they may be more likely to take advantage of the program if it's promoted by their credit union.

Much of the Straw Proposal talks about maintaining uniformity and consistency across the entire state, avoiding a patchwork of programs that would create confusion in the marketplace and be virtually impossible to administer in a comprehensive and coordinated manner. Such an approach jeopardizes the goals of the HPwES program. The cuGreenLoan program is independent, well-established, and is the ideal vehicle for creating a uniform, state-wide program.

The Straw Proposal also talks about the state's Energy Efficiency Program principles, including addressing all market segments, specifically citing low- to moderate- income (LMI) households. Credit unions have provided nearly $2 million in financing to individuals who were not able to get financing through the utility channel, which highlights the cuGreenLoan program's unique ability to better meet these goals. Serving LMI and underserved communities, after all, is a fundamental goal of the member-owned, not-for-profit credit union cooperative model.

Credit unions also offer the added service of allowing the homeowner to increase the size of a project by extending home equity or personal loans beyond current HPwES program limits. In fact, we believe the cuGreenLoan program offers a model for other parts of the Energy Efficiency program and should be expanded.

For example, based on the recent NJCEP FY20 Proposed Second Budget Revisions, there appears to be a lack of demonstrated progress for the Direct Install program. Based on our experience with residential financing, we would suggest that the market flaw impeding energy efficiency investments under Direct Install is related to the inability of firms to obtain cost-effective financing for their portion of any given project. As we mentioned in our comment letter on the proposed budget revisions, the cuGreenLoan model could be adapted to increase that program's productivity by providing financing for a Direct Install project owner's 30% share, making the overall program much more effective in achieving its goals.

In our comment letter we proposed a pilot that could both strengthen the reach of the Direct Install program, as well as serve as a near-term post COVID-19 economic stimulus. The pilot could quickly inject much-needed funds into the economy for both contractors and the business customers of the Direct Install program, in addition to keeping New Jersey on course with our energy efficiency goals.

For the pilot project, we proposed that NJCEP marry the concept of the cuGreenLoan interest-rate buy-down approach with its existing Direct Install program to bridge the gap between funds provided by the state and the funds needed by the business.

For example, in the standard scenario in which Direct Install projects receive a 70% grant, we would propose that credit unions provide the remaining 30% as a zero- or very low-interest loan with a buy-down from the state on the interest forgiven.

Let's assume fifty projects at an average total cost of $100,000 each, with credit union financing needed for 30% of each of those projects. The cost of the buy-down to the NJCEP would be about $1,000,000 (50 projects x a high-end estimate of $20,000 in interest buy-down per project). The actual interest amount would vary based on the size of the project and prevailing prime rate.

Given the dollars involved, we would also suggest creating a loan-loss reserve to enable credit unions to lend deeper into the credit pool – important given the impact of COVID-19 related shutdowns on balance sheets. In this instance, we would recommend setting aside $250,000 as a loan-loss reserve in order to facilitate financing for less credit-worthy borrowers.

The resulting total cost to the NJCEP would be approximately $4.75 million, with the 70% grants included in the calculation:

Grants @ 70% project cost:	$3,500,000
Interest buy-down on 30%:	$1,000,000
Loan-loss reserve:	$250,000
Total:	$4,750,000

If the projects supported were less than $100,000, then the numbers all scale down accordingly.

We proposed that NJCEP allocate $4.75 million of the approximate $10 million proposed reallocation to increase the number of Direct Install projects in New Jersey for, in addition to the standard up to seventy-percent project grant, a no-interest loan for the small business's contribution to the project. Under this model, the NJCEP would buy down the interest rate on the financing in a manner similar to what the HPwES program does for homeowners.

A buy-down financing program could also enhance the multifamily program, especially for smaller, owner-occupied, multifamily buildings.

The CrossState Credit Union Association (formerly the NJ Credit Union League) has both demonstrated experience and the infrastructure in place to be ready to launch such a pilot program as soon as the public health crisis passes. The program could play a valuable role helping to jump-start New Jersey's economy in the critical few months following the state's economic shut-down.

We not only believe the existing cuGreenLoan program should be continued, we believe ways to expand it should be explored.

New Jersey's member-owned, not-for-profit credit unions stand ready to support Governor Murphy's clean energy initiative, and to help re-start the state's economy.
If the Straw Proposal's lack of specific reference to the cuGreenLoan program is intended to eliminate the program, it would have a ripple effect throughout the state on consumers, businesses, low income communities and credit unions.

We would welcome the opportunity to discuss this at greater length.

With best regards,

Patrick C. Conway

Patrick C. Conway
President & CEO

From: wdefeo defeoassociates.com
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition – Full Straw Proposal
Date: Monday, April 13, 2020 4:17:32 PM

New Jersey Board of Public Utilities
Aida Camacho-Welch, Secretary
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350

Dear Ms. Camacho-Welch:

New Jersey's Energy Master Plan is a bold plan that's vital to our economic and environmental sustainability. In my professional capacity, I have worked on a number of energy related projects over the years and I have had the opportunity to see the results of energy efficiency projects that save money and reduce energy demand.

By transitioning to a full clean energy economy, the plan provides even more exciting opportunities for New Jersey's residents and the business community. It's critical, though, that the implementing framework be realistic in terms of its ability to optimize these opportunities and benefits, starting with the energy efficiency transition Full Straw Proposal.

To that end, I suggest that the time frame for financing energy efficiency programs in the Full Straw Proposal be more flexible. Rather than utilizing a seven year window, consider stretching costs over 15 years. Seven years is simply too short a time frame to achieve full implementation of meaningful energy efficiency programs that yield consumer savings. In fact, 7-year amortization will likely cause bill shock, hitting low-income customers especially hard. With one-third of Americans, and many more people of color and low-income residents already facing energy insecurity, the state cannot let this happen.

I applaud the BPU and Murphy Administration for committing to energy efficiency and appreciate this opportunity to share my thoughts on how to strengthen the Full Straw Proposal to fully capitalize on it.

Sincerely,

Wayne DeFeo, LEED AP
Principal
DeFeo Associates

15 Washington Valley Road
Warren, NJ 07059
732-563-9524

From: Adrianna
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition - Full Straw Proposal
Date: Monday, April 13, 2020 2:04:04 PM

April 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, New Jersey 08625-0350

Dear Ms. Camacho-Welch,

I'm a member of the millennial generation and a proud advocate of worldwide efforts to combat climate change. I'm pleased that the BPU was part of the state's efforts to rejoin the Regional Greenhouse Gas Initiative (RGGI) last year. I thought it was disgraceful that we withdrew from this effort in the first place!

It is widely known that energy production and consumption is the largest source of global greenhouse gas (GHG) emissions. That is why it is so important for your agency to develop an energy efficiency program that attracts as many participants as possible.

Not only does an energy efficiency program have to be effectively designed to reduce consumption, it has to be affordable in order for small business owners and modest income earners like me to participate. Accordingly, I hope that you reconsider your proposed financing schedule for the program and extend the timeframe by which costs will be recovered to lessen the burden on all consumers.

Thank you for considering my request and thank you for your efforts to protect the environment in New Jersey and beyond.

Sincerely,

Adrianna Piserchia, Owner
Doodle's Desserts
Westampton, NJ

To:
New Jersey Board of Public Utilities
Division of Clean Energy
44 S. Clinton Ave
Trenton, NJ 08625

From:
Energy Analysis Group
211 Boulevard of the Americas, Suite 106
Lakewood NJ 08701

To whom it may concern,

Thank you for this opportunity to offer our comments on the Straw Proposal New Jersey's Energy New Jersey's Energy Efficiency and Peak Demand and Peak Reduction Programs. Energy Analysis Group is a leading contractor for the Current Multi Family programs, having upgraded thousands of apartments in the last few years, and welcomes this opportunity to offer remarks for review.

- Process – Presently in the existing MF program, the approval process from audit to approval is generally within two weeks. How will the process change with utilities running existing MF projects? Our existing customer base sees this as the number 1 reason to go through this program. If they need to wait for multiple approval levels and design by engineering firms they quickly lose appetite…
- Exclusivity – Will the programs be open to all contractors? If not, will requirements for participating contractors be the same in each utility?
- Outside bidding – How will each utility deal with project submitted by outside contractors? If our project will need to be bid to the open market, why would we as contractors ever submit a project only to lose it in the open bidding process?
- Measure determination –Presently licensed plumbers, etc. are designing the project scope. Will an engineer be required to design the project scope? If yes, How will that cost be passed to the customer?
- Software – will each Utility require their own software for modeling or will they all be restricted to using the same one?
- Building Conversions – if a building owner is looking to do an oil to gas conversion, how would they participate?
- Dual Utility projects – if one project includes measures that reduces energy from more than one utility, how will the payments be coordinated? Will the value of interactive modeling be lost?
- OBRP programs – will each utility be running its own financing program or will the loan programs be independent (like EFS/credit union loans)?

Once again, thank you for taking our comments for consideration.

Yours,

Asher Hartman

WILLIAM C. SPROULE
EXECUTIVE SECRETARY-TREASURER

MICHAEL HAND
ASST. EXECUTIVE SECRETARY-TREASURER

EASTERN ATLANTIC STATES
REGIONAL COUNCIL OF CARPENTERS

1803 SPRING GARDEN STREET, PHILADELPHIA, PA 19130 | PHONE: 215-569-1634 | EASRCC.ORG

To New Jersey Board of Public Utilities,

The Eastern Atlantic States Regional Council of Carpenters (EASRCC) represents 40,000 hardworking men and women carpenters in the States of New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, the District of Columbia and Puerto Rico.

We are writing to you today to comment on the Board of Public Utilities' Energy Efficiency Straw Proposal.

EASRCC fights each and every day to protect the rights of workers, advocating for good pay, health/welfare benefits and strong pension and annuity benefits so that millions of our workers can retire with the dignity that they so rightly deserve.

A strong New Jersey workforce with a good paying jobs benefits our society because our Carpenters live, work and spend their hard-earned pay in New Jersey communities. Our carpenters pump back millions of dollars into the State's tax coffers each year that helps to build our schools, our buildings, our bridges and New Jersey's energy infrastructure. For example, our carpenters work in nuclear facilities to build the platforms that nuclear plant workers need to reach large pieces of equipment high up in the air during planned maintenance work. We're also particularly excited with New Jersey's focus on our clean wind energy future as our piledrivers, dock builders and divers will be the ones constructing offshore wind turbines off of New Jersey's coast.

Our Union believes that the State's Energy Master Plan rightly sets ambitious goals and gives New Jersey businesses a roadmap to achieve a cleaner energy future for all New Jersey citizens. The Carpenters are extremely supportive of the Energy Master Plan and the energy efficiency straw proposal especially as it relates to "Strategy 4: Reducing Energy Consumption and Emissions from the Building Sector."

We are dedicated to working with the State of New Jersey and our brothers and sisters across the construction industry to reduce energy consumption and emissions and to transition to net-zero carbon new construction. We believe that the State is wise to prioritize smarter building design and construction by having a plan to educate residential and commercial builders, contractors, engineers and architects about energy-efficient strategies for new and existing buildings.

Our Union believes that the State's focus on energy efficiency can help to create jobs and new economic opportunities. Specifically, we are encouraged by the Clean Energy Job Training Program, which will ensure that every resident can benefit from new jobs in energy efficiency. EASRCC believes that a renewed focus on energy efficiency will help New Jersey residents to obtain the necessary skills to thrive in a growing job market.

EASTERN ATLANTIC STATES
REGIONAL COUNCIL OF CARPENTERS

Representing members in New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Washington D.C., and 10 counties in North Carolina

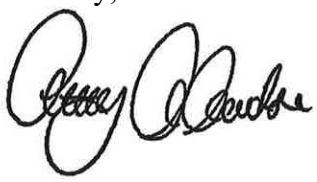
In their 2019 U.S. Energy and Employment Report, the National Association of State Energy Officials (NASEO) and the Energy Futures Initiative (EFI) found that almost 34,000 New Jersey residents were employed in energy efficiency jobs in 2017. One year later, the state saw an increase of over 2,000 energy efficiency jobs, with more than 36,000 residents employed in that sector in 2018.

Jobs associated with energy efficiency programs have higher-than-median hourly wages and a higher percentage of union representation, compared with the rest of the workforce. Our Union believes that there is a powerful opportunity to create good jobs that are critical to addressing climate change and building a clean energy future.

We plan to work closely with all New Jersey utilities who will play a vital role in managing energy efficiency programs by making investments in our State's energy infrastructure. These long-term investments not only strengthen our energy grid, but they will also create good paying jobs for New Jersey construction workers who pay their federal/state/local taxes (and utility bills) and invest their hard-earned income back into our State's communities.

Thank you for the opportunity to submit our comments on this important straw proposal.

Sincerely,



Anthony N. Abrantes Sr.
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EASRCC.ORG

April 13, 2020

Honorable Joseph Fiordaliso
President
New Jersey Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ. 08625
Emailed to: EnergyEfficiency@bpu.nj.gov

Re: EE Transition Straw

Dear President Fiordaliso:

I am submitting comments below in regard to the NJBPU Energy Efficiency Straw Proposal. First and foremost, I want to thank the BPU staff for all of their work in holding listening sessions and workgroup meetings and taking the information they heard and developed the EE Straw Proposal. Under very tight timeframes and all of the difficulties in working during the COVID19 pandemic, the dedication and efforts of Kelly Mooij and all of the NJBPU staff should not be overlooked.

As a member of the NJPPBU Energy Efficiency Advisory Group I had the pleasure of working with all of the staff throughout this process. They provided the Advisory Group with background information, detailed analyses and set up a number of working sessions for us. The comments I am submitting below do not in any way, however, reflect the comments or opinions or recommendations of the EE Advisory Group. The following comments are submitted on behalf of the members of the Chemistry Council of New Jersey.

The Chemistry Council of New Jersey represents manufacturing companies in the business of chemistry, i.e. chemical, pharmaceuticals, biologics, flavors and fragrance manufacturing, petroleum refining and the associated engineering, consulting, construction, maintenance, legal business and the supply chain, Our manufacturing companies represent over 45,000 employees in New Jersey. Manufacturers use a great deal of energy and we are constantly looking for ways to reduce our energy usage as well as utilize energy in the most efficient way possible. Our companies have spent a great deal on not only implementing energy efficiency projects, but we have also invested a great deal in on-site solar generation projects and combined heat and power projects. It is no secret that doing business in New Jersey can be difficult. The companies that have located here recognize the various benefits of being corporate citizens in New Jersey, but it is getting more difficult each day to secure the corporate investments necessary to remain a viable facility here. The largest cost to a manufacturing facility in New Jersey is the cost of energy. New Jersey manufacturing companies on average pay more than 45% for energy than their sister operations and competitors around the country.

Our main concern with the Energy Efficiency program discussions, as well as all of the various programs being discussed and implemented pursuant to the Energy Master Plan and Executive Order, is that they will lead to even higher energy bills on top of the already high costs. We continue to request that the NJBPU begin discussions on proposals to reduce the cost of energy in New Jersey, we can not continue to raise the energy prices on business and citizen ratepayers. The Energy Efficiency Straw Proposal is very well thought out and we generally support the concepts and discussions within the proposal. Our specific comments are the following:

- The Clean Energy Act (CEA) that Governor Murphy signed into law looks to significantly reform the State's energy sector and help achieve the State's goal of 100% clean energy by 2050. Energy Efficiency is a crucial part of that overall efforts to try and improve the New Jersey carbon footprint. However, as large energy users in this state, it important that the efforts we make look to achieve an equitable approach that will result in reduction of consumption, but mindful that we lessen the financial impact on the business community and all of the ratepayers. In many of the public stakeholder sessions the Utility Industry has advocated on policies that guarantee them a specific return on their investments, even with the reduced energy usage resulting from energy efficiency projects. This is a key point we need to emphasize. Just like utilities, manufacturing plant managers need to request capital in order to implement expansions, repairs and projects like an energy efficiency project. With that being said, if we expect manufacturers to implement energy efficiency projects, then the NJBPU must ensure that the energy costs do not increase. Even while our facilities are doing everything possible to reduce their impact on the environment and their carbon footprint the facilities need to see a benefit for their energy efficiency investments and efforts. Any discussion of an outright decoupling of energy usage with energy charges will make investments in energy efficiency projects practically impossible. Where some parts of the country have implemented decoupling policies the costs of energy to the ratepayer have increasingly gone up. If utilities are allowed to seek full compensation for selling less energy that will result with no increase in risk to the utilities and all of the risk is shifted, along with increased rates, to the ratepayers. Under a full decoupling scenario, the utilities would receive a guaranteed return on their infrastructure spending, a guaranteed return on their equity investment and a guaranteed return on selling energy, no matter how much they sell. This would make New Jersey extremely noncompetitive in the keeping businesses and the jobs they create. All of the risk and downside would fall onto the ratepayers. We support the reduction in Return on Equity outlined in the proposal. We concur with some of the recommendations from the BPU staff regarding a program with a more limited or partial decoupling model. One that carefully measures the rate of return and ensures that compliance targets are fully met, including penalties if they are not, and careful consideration on ratepayer impact regarding cost recovery. This is especially true given the reduced risk for the utility companies and applaud the BPU's acknowledgement of this fact.

- In pertaining to how the energy efficiency programs are administered we do not support a one size fits all approach and we support the continued implementation programs in the state run by private businesses, public interest groups, credits unions and the like. We support programs being continued under BPU staff management as well as under utility management.

The CEA has created specific benchmarks for the reduction in electricity and Gas consumption in the Service territory for each public utility provider. These yearly reductions are based on the usage from the three years prior to implementation of the program. While we applaud these efforts and hope they are successful in achieving reduction, we feel it equally important that the ratepayer impact be considered as equally important. Our industry has always been at the forefront of efficiency and efforts to minimize their consumption as it is a major factor when doing business in the Garden State. Any new program implementation must consider these factors as it could impact, further development, growth, relocation, or even a company's decision to remain in New Jersey. Ratepayers should not end up paying more for consuming less energy. There are many outside factors involved in cost recovery and we must continue to ensure any program moving forward considered these variables very carefully. There is no one size fits all model for energy efficiency as some of utilities would have you believe. There are number of states have taken up some various energy efficiency models, including decoupling. This enables our state carefully to consider and review how those programs have been working, including in achieving energy goals and ratepayer impact. We urge the BPU to continue to carefully review this invaluable information and the stakeholders throughout the state as we craft a program that will better serve the business and residents of New Jersey.

Thank you for your time and consideration.

Sincerely,

Dennis Hart
Executive Director
Chemistry Council of New Jersey

April 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Submitted via email: EnergyEfficiency@bpu.nj.gov

Re: Energy Efficiency Alliance of New Jersey Comments on Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Reduction Program.

Introduction

First, we would like to thank the New Jersey Board of Public Utilities for continuing this vital process in such uncertain and troublesome times.

The Energy Efficiency Alliance of New Jersey submits these comments in response to the Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs. With these comments, the sign-on letter submitted with organizations from across the State, and the individual comments of our member companies and partners, EEA-NJ hopes to provide the Board of Public Utilities with the information required to create a thriving market for energy efficiency in New Jersey.

The Energy Efficiency Alliance of New Jersey ("EEA-NJ") is a trade association for the energy efficiency industry, which is composed of a diverse range of professions—from contractors and manufacturers to engineers, architects, and software developers—and a local workforce that cannot be outsourced. Together with its sister organization, the Keystone Energy Efficiency Alliance ("KEEA"), EEA-NJ represents 70 business members who provide energy efficiency products and services in support of an industry that accounts for more than 30,000 New Jersey jobs. Our membership is large and diverse, with experience designing and implementing a variety of demand side management solutions and energy efficiency programs across the globe. Our aim is to guarantee the success of energy efficiency programs for both the businesses and the ratepayers of New Jersey—because our members' livelihoods depend on it.

Energy efficiency is a powerhouse job-creator and will propel New Jersey towards its ambitious clean energy goals. The latest U.S. Energy and Employment Report found a total of 2,378,893 Americans were employed in energy efficiency in 2019, putting it among the largest employers across all energy sectors.[1] And there is no end in sight: in 2019, energy efficiency added 54,028 new jobs, making it the fastest growing job category in the energy sector for the third year in a row.

[1] NASEO and EFI, 2020 U.S. Energy & Employment Report, March 2020, https://www.usenergyjobs.org/s/USEER-2020-0323.pdf/

The energy efficiency industry can be the core of the economic recovery, ready to respond with shovel-ready projects, as it has in previous economic crises. The 2009 American Recovery and Reinvestment Act (Recovery Act) included the Energy Efficiency and Conservation Block Grant (EECBG) Program, which provided states, cities, communities, and Indian tribes with $3.2 billion to deploy new energy efficiency programs and expand existing efforts. Over the next few years, EECBG created tens of thousands of local, well-paying jobs.

Based on our members' broad experience designing and implementing successful programs, EEA-NJ recommends the following changes:

1. The proposed cost recovery mechanism should be modified according to the below so that utilities prioritize investment and spending in energy efficiency:
    a. removing the 100-basis point pre-penalty;
    b. allowing investments to be amortized over the full-weighted average life of the measure, which is far longer than the proposed 7-year term;
    c. pursuing full symmetrical decoupling as the priority cost recovery mechanism; and
    d. establishing a symmetrical penalties and incentives mechanism.
2. The proposed program administration structures and oversight systems should be modified to enhance the delivery and administration of these programs.
    a. The Energy Efficiency Marketplace should be a utility-run Core Program with statewide co-branding.
    b. New Construction should be a co-managed or utility-run program. This will avoid current administrative pitfalls while allowing for uniform standards and processes.
    c. Allow for more flexibility in program budget and sector budget shifting.
3. EM&V system and QPIs should ensure utility incentives are based on performance and programs can align and adjust with state Climate and Equity Goals.

Below we have elaborated further on each of these points.

1. The proposed Cost Recovery mechanism should be modified according to the below so that utilities prioritize investment and spending in energy efficiency:

If New Jersey does not implement a successful cost recovery structure, the State risks missing the targets established in the Clean Energy Act. Decoupling, with an appropriate return on equity, and performance incentives are vital components to a successful cost recovery structure because together they fundamentally change how utilities view energy efficiency. Such a mechanism must ensure that energy efficiency investments will result in equal or better earnings potential for the utility than traditional poles and wires investments.
Therefore, we recommend: removing the 100-basis point pre-penalty; amortization of investments over a term that is consistent with useful life of the mix of measures implemented in the program; pursuing full symmetrical decoupling as the priority cost recovery mechanism; and establishing a symmetrical penalties and incentives mechanism.

a. Reducing the return on equity 100 basis points will result in utilities continuing to favor poles and wires over energy efficiency investments.

Generally, if investments in energy efficiency earn less than investments in infrastructure, a utility will be far less likely to prioritize energy efficiency. In fact, there will be a bias toward minimizing instead of maximizing budgets for, investment in, and talent focused on energy efficiency programs due to the fundamental fiduciary responsibility of utility management to protect shareholder returns.

The Straw Proposal justifies its 100-basis point penalty for these investments on the premise that EE investments are less risky than poles and wires investments. But experience has shown energy efficiency investments carry significant risks, including uncertainty about whether measures will perform as projected or whether evaluators will accept the M&V protocol. The Straw Proposal also cites practices in other states. However, neither of the states cited utilizes an automatic penalty of 100 basis points. The Straw Proposal further cites a Graceful Systems study from 2012 that finds decoupling may reduce risk for energy efficiency investments compared to no decoupling.[2] However, that study does not find evidence that energy efficiency investments with or without decoupling are less risky than poles and wires, and in fact cites evidence to the contrary.

b. New Jersey should allow investments to be amortized over the full-weighted average life of the program and project measures installed to better account for the actual costs of energy efficiency programs.

The BPU has proposed a seven-year amortization period. While this spreads out costs for short-term measures, it shortchanges more substantial measures, such as HVAC upgrades and shell measures, which can yield savings for up to fifteen years. Furthermore, judging by the information provided to stakeholders, the seven-year timeframe seems to be arbitrary, with no data or reasoning provided aside from generalizations. Finally, if the arbitrary 7-year term is not extended, it will accelerate consumer rate impacts for longer, deeper measures and potentially disincentivize such measures. The BPU should establish a policy that weights the average life of the utility program measure mix, pacing costs, and benefits to the ratepayer equally, and prevents arbitrary timelines from deterring meaningful investment in energy efficiency.

c. The State needs to implement full symmetrical decoupling with robust ratepayer protections; utilizing a lost revenues adjustment mechanism fails to address a key issue -- the foundation of the utility business model is to sell more electricity.

While we appreciate Staff suggesting that decoupling could be implemented later and acknowledging faults with the proposed Lost Revenues Adjustment Mechanism, we feel that it is important that New Jersey institute full symmetrical decoupling now. Staff needs to clearly state that utilities can and should file plans that incorporate decoupling. Traditional ratemaking

[2] Morgan, P. (2013, February). A Decade of Decoupling for US Energy Utilities: Rate Impacts, Designs, and Observations. Page 14, Retrieved from RAP: https://www.raponline.org/wp-content/uploads/2016/05/gracefulsystems-morgan-decouplingreport-2012-dec.pdf.

structures tie profits to volumetric sales of electricity, motivating utilities to increase sales and resist reducing sales through energy efficiency programs or other means. Full symmetrical decoupling would guarantee utilities a fixed revenue determined in a base rate case; the process is similar to standard rate proceedings, with the addition of a responsive mechanism that controls utilities' revenue streams. The mechanism would leave utilities indifferent to energy usage, and would focus their profit-making activities on cost savings and meeting minimum performance standards, including those for energy efficiency. For further details on the consumer protections achieved by decoupling, as well as the protections it can provide in times of crisis, see the Coalition comments submitted by EEA-NJ, NRDC and EDf, as well as others, Section 5: Design a cost recovery structure that places utility investments in energy efficiency on par with traditional capital expenditures while ensuring that ratepayers of all customer classes are sufficiently protected from any unreasonable cost increases.

d. The proposed performance incentive and penalty mechanism provides no incentive, as the scale maxes out at the most recently-approved return on equity instead of providing a higher return on equity.

EEA-NJ believes that the proposed linear scale contravenes the intent of the Clean Energy Act. The Clean Energy Act mandates that if a utility achieves or does not achieve the performance targets, they shall receive a penalty or incentive, as determined by the Board.[3] An incentive is defined as something that "encourages a person to do something."[4] The proposed incentive ROE scale is not an incentive because allowing a utility to receive the full WACC from its most recent base case simply removes a disincentive.

e. Utilities should not be required to bid energy efficiency into PJM as a resource because there are already successful businesses in New Jersey who operate within this market.

Allowing current participating businesses to continue running PJM energy efficiency programs is the least cost and most effective manner to implement these programs. Additionally, while there is substantial participation, there has been no evidence to suggest that the current programs are unsuccessful or inefficient. In fact, they have excelled in a unique and regulatory-challenging market. Indeed, some of the 30,000 energy workers that EEA-NJ represents are engaged in this support; these advisors provide a sophisticated capability that includes leveraging PJM capacity market opportunities.

2. The proposed program administration structures and oversight systems should be modified to enhance the delivery and administration of these programs.

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[3] Clean Energy Act Section e(2). ((e)(2)If an electric public utility or gas public utility achieves the performance targets established in the quantitative performance indicators, **the public utility shall receive an incentive as determined by the board through an accounting mechanism established pursuant to section 13 of *P.L.2007, c.340* (*C.48:3-98.1*) f**or its energy efficiency measures and peak demand reduction measures for the following year. The incentive shall scale in a linear fashion to a maximum established by the board that reflects the extra value of achieving greater savings) (emphasis added).

[4] Cambridge Dictionary, https://dictionary.cambridge.org/us/dictionary/english/incentive.

a. The Energy Efficiency Products Marketplace should be a utility core program with statewide co-branding.

The Energy Efficiency Marketplace can and will do so much more than sell energy efficiency products. An Energy Efficiency Products Marketplace can be a powerful tool for consumer engagement, with opportunities and implications for utility-run programs stretching beyond the sale of energy efficient products. Additionally, a utility-run marketplace can allow for additional benefits when the state starts to seriously pursue demand reduction programs, as incentives designed within the marketplace can seamlessly integrate such initiatives.

We propose that the BPU balance the need for a statewide brand with the need to integrate a successful products marketplace as a utility-run core program. This format should include co-branding and marketing of programs for statewide recognition under the "Clean Energy Programs" name or a new, more energy efficiency-focused state brand.

b. The BPU should consider administering New Construction as a co-managed or utility core program while maintaining oversight of codes and standards. This will avoid current administrative pitfalls, but still allow for uniform standards and processes.

The mandates within the Clean Energy Act require a hugely expansive portfolio of energy efficiency programs to be run statewide, immediately. Therefore, utilities should administer the bulk of programs as they will be able to leverage existing relationships with builders and developers, while shortening timeframes to process applications and incentives. Moreover, administration and program costs will be minimized for the state, which has a limited funding source.

For its part, the state is best positioned to oversee regulations and push innovation through codes and standards. State action is needed to ensure equal access to new and existing home programs as they grow. The State should mandate the creation of two statewide online platforms: one for retrofit contractors to bid and one for new construction evaluators to submit required documentation. The State should also set requirements that ensure fair and equal competition in the market and set parameters for program implementation that ensure all programs are accessible to businesses and citizens across the state.

In sum, it would be more effective for both the BPU and utilities if the State focuses on codes, standards, and regulation changes, but leaves the administrative work of scaling these programs statewide to the utilities.

c. Allow for more flexibility in program and sector budget shifting.

Program designs and rebate systems are filed as part of implementation plans. Because cost structures and demographics change by utility territory and by ZIP code, the limits proposed in the Straw Proposal will not allow Program Administrators to transfer funds in any meaningful amount between programs. These decisions are dictated by business best practices and generally

are not done to increase ratepayer costs, but to make programs cost-effective based on unpredictable behaviors in the market and unforeseen successes or failures as implementation progresses. Therefore, EEA-NJ proposes the following recommendations to the current oversight structure:

- EEA-NJ strongly disagrees with the proposal that any proposed budget modifications for LMI customers and small business will require full board approval and believe that these programs should be given the same flexibility as others.[5] While we acknowledge that these sectors do need special protections, ensuring budgets are appropriately dedicated to them could come in the form of a carve out.
- EEA-NJ cautions against the use of "sector" to define budget shifts.[6] It is not exactly clear what a sector is considered and could lead to confusion.
- EEA-NJ suggests that staff remove the requirement that budget shifts within sectors be reported. These decisions are done by experts that know the program, territory, and consumer behaviors well. If the goal is to incentivize usage, program administrators should be afforded the flexibility to do so based on their knowledge of the programs. Oversight should take the form of reporting of the transfers as they happen and providing an explanation as to why. If the BPU feels that there are too many exchanges based on irrational choices, then a system of asking within certain thresholds can be put in place.

3. QPIs and other measurement and evaluation components should be adjusted to ensure incentives are based on performance and programs align with other state policy goals.

a. The QPIs should consist of fewer metrics and be sure to balance costs, energy efficiency goals, and clean energy state goals as they evolve.

Measures that focus on lifetime and annual metrics need to be more balanced. The BPU's proposed metrics strongly favor longer lived energy efficiency measures, weighting only 15% to annual savings and 50% to lifetime savings. The Utility Cost Test should be less than 35% as it is disproportionality higher than other factors. While the Utility Cost Test is valuable to determine savings it only measures a narrow portion of benefits and therefore should not be weighted disproportionality higher than other factors. Additionally, given the language of the Clean Energy Act and climate and equity considerations, EEA-NJ would suggest that the state use the Societal Cost Test instead of the Utility Costs Tests to assess costs.

b. Measurement metrics should be adjustable to award for performance in achieving or exceeding other state goals and policies outside of pure energy reduction.

The BPU should allow for the performance metrics to change to accommodate for changing state policy goals. For example, New Jersey is on a path to electrify the building and transportation

[5] New Jersey Board of Public Utilities, Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs, Spring 2020, at 26. [hereinafter "Straw Proposal"].
[6] Straw Proposal at 27.

sectors, both of which can increase demand on the grid. This means that the current metrics of annual and lifetime savings may become obsolete. To avoid this, the state should incorporate metrics that measure reduced carbon or other policy goals that look to decrease fossil fuels.[7]

c. The same EM&V Processes and Metrics should be used to measure State, Co-Managed, and Utility Programs.

This will ensure that all programs administrators are meeting and moving towards the same goals and standards. State and Co-Managed programs should be held to the same scrutiny and metrics as Utility programs to ensure that all programs are held to the same standards and are accountable.

d. EM&V working group should include additional stakeholders, especially companies that will be evaluated.

The current makeup does not include any form of representation from energy efficiency program administration consultants, implementation contractors, or technology producers. EEA-NJ echoes the coalition letter's recommendation that the EEAG be empowered with more resources and that the numerous working groups identified in the Straw Proposal be structured as subgroups within the EEAG. This will ensure that not only business, but equity, accessibility, and clean energy concerns can be addressed in the EM&V group and process.

Conclusion:

Finally, as the State continues to develop and evolve energy efficiency programs, it should ensure that it does not do so in a vacuum. Energy efficiency is not just a means to lower energy usage; it provides meaningful contributions to move the state towards its goals for a cleaner, more equitable energy grid and carbon free future. To that end, BPU needs to ensure that, as it determines EE policy, it also strives to unify energy efficiency and clean energy where possible, such as integrating deep energy efficiency retrofits with the state solar incentive program. For further expansion on this, please see the comments submitted by a coalition of organizations, including EEA-NJ, the Environmental Defense Fund, and the Natural Resources Defense Council.

Thank you for your time and consideration,

Erin Cosgrove, esq.
Policy Counsel
Energy Efficiency Alliance of New Jersey

[7] American Council for an Energy Efficient Economy, Performance Incentive Mechanisms for Strategic Demand Reduction, February 4, 2020, available at http://www.aceee.org/research-report/u2003.

Edison Electric
INSTITUTE

Thomas R. Kuhn
President

April 13, 2020

Via electronic submission: *EnergyEfficiency@bpu.nj.gov*

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 Clinton Avenue, 9th Floor
Trenton, New Jersey 086258-0350

Re: Energy Efficiency Transition – Full Straw Proposal

Dear Secretary Camacho-Welch,

The Edison Electric Institute (EEI) respectfully submits this letter and appreciates the opportunity to provide public comment to the New Jersey Board of Public Utilities (BPU or Board) on the March 20, 2020 "Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs" (hereinafter, Proposal). EEI previously submitted a letter in May 2019 on the Board's study proposal and has continued to monitor these deliberations.

EEI is the association that represents all U.S. investor-owned electric companies. Our members, including those in the great state of New Jersey, provide electricity for more than 220 million Americans, and operate in all 50 states and the District of Columbia. Collectively, the electric power industry supports more than 7 million jobs in communities across the United States. EEI's member companies deliver the safe, reliable, affordable, and increasingly clean energy that powers the economy and enhances the lives of all Americans under normal circumstances and are proud to continue to do so even in these trying times.

It is undisputed that the Clean Energy Act of 2018 aims to make significant greenhouse gas emissions reductions in a relatively short period of time, and the Board has an opportunity to shape New Jersey's commitment to driving energy efficiency (EE) across the state to support this goal. For several decades, EEI's member companies have supported their customers' interests in EE by providing incentives that lower the cost of purchasing energy-efficient appliances and devices that encourage energy management. Since 2008, electric company EE program expenditures have more than doubled, reaching $7.2 billion

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in 2018.[1] In that same year, EE programs saved an estimated 211 terawatt-hours (TWh) of electricity, or enough electricity to power 26 million U.S. homes for an entire year.[2] That is equivalent to 5.5 percent of the total end-use electricity consumption in 2018.[3] Consistent with the goals of New Jersey's Clean Energy Act, this avoided the generation of 147 million metric tons of carbon dioxide emissions.[4] Using energy more efficiently is one of the fastest, most cost-effective ways to save money, reduce GHG emissions, create jobs, and meet growing energy demand. Utility programs are widely recognized as important tools in this effort.[5]

While state EE programs have resulted in significant savings across the U.S., it is widely recognized that supportive state regulatory frameworks are key to the electric industry's success with, and ongoing commitment to, energy efficiency. EEI commends the BPU and stakeholders for soliciting multiple rounds of comments, establishing a robust workgroup structure, and holding public events to solicit feedback in an open forum to develop the necessary regulatory frameworks to drive EE forward in New Jersey.

Throughout this process, the BPU has made substantial progress in designing a system to drive success in meeting and exceeding the state's important EE goals. However, there remain two major areas where the Board's proposed approach does not align with other successful programs across the country: offering a reduced ROE for EE investments and proposing an accelerated amortization of 7 years for program investments. Additionally, the use of cost caps, such as those articulated in Appendix E,[6] is concerning because the caps are based on other states' established programs and ignore the reality of needed program ramp-up. As a result, the proposed caps could impede NJ electric companies' ability to design and deliver EE programs capable of achieving the ambitious savings targets within the prescribed time period.[7] Collectively, if unchanged, these recommendations present obstacles, such as increased customer costs, rather than opportunities to realize the laudable objectives of the Clean Energy Act. When finalizing the Proposal, the BPU can make EE programs more successful while mitigating potential cost impacts to customers by increasing the ROE as well as the amortization period, and removing the cost caps contained in Appendix E.

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[1] The 2018 data is presented in the March 2020 paper as the latest year with complete data. *See* Institute for Electric Innovation, *Energy Efficiency Trends in the Electric Power Industry (2008-2018)*, March 2020.
[2] *Id.*
[3] *Id.*
[4] Id. Carbon dioxide emissions are the primary GHG emissions associated with electricity generation. *See* U.S. Environmental Protection Agency (EPA), *Sources of Greenhouse Gas Emissions*, https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions.
[5] *See* EPA, Local Energy Efficiency Benefits and Opportunities, https://www.epa.gov/statelocalenergy/local-energy-efficiency-benefits-and-opportunities
[6] *See* Proposal at 85.
[7] Generally, regulatory policies that contain caps constrain EE spend, which inherently limits a program's effectiveness when compared to programs without similar limitations.

To Encourage EE Spending, Energy Efficiency Should be on Equal Footing with Traditional Investment

While Staff has modified the ROE proposal by 100 basis points between the last proposal and this one, any ROE for EE that is less than that for traditional investments inherently discourages, rather than encourages, EE investment, which does not appear to align with the Board's broader objective. Staff attempts to account for the ROE difference by citing the ability of utilities to collect O&M on a full and current basis and to use a Lost Revenue Adjustment Mechanism (LRAM). Although these mechanisms are helpful, they are not an adequate substitute and still fail to compensate energy companies on a level basis for these expenditures in a timely manner. LRAMs, even if allowed on an annual basis, as proposed here, require that companies absorb shortfalls on a short-term basis—and customers ultimately absorb these shortfalls through rate reviews. Conversely, for example, full decoupling based on gross savings, as discussed by some stakeholders, better protects customers through countervailing use of surcharges and refunds to align at each energy company's BPU-approved revenue requirements. Accordingly, while an LRAM can be an important tool in the regulatory toolbox, it is not a stand-in for, nor should it impact the provision of, a fair return.

To more effectively incent energy companies to achieve the level of EE investments called for by the Clean Energy Act, the Board should adopt an ROE approach like those in other states[8] that put demand resources on a level playing field with traditional supply resources. Not one that differentiates those investments on a purported difference in risk.

To Fully Capture Customer Benefits, Amortization of EE Investments Should be Equal to the Weighted Average of the Useful Life of the Investments

Regarding Program investments, Staff is correct that investments, other than those for operations and maintenance, should be amortized. Where EEI and Staff differ, however, is regarding the time period of that amortization. Tenets of well-designed utility ratemaking dictate that benefits and costs should be as closely matched as possible. Accordingly, amortization periods should be equal to the weighted average useful life of the investments. Such treatment is used in states such as Illinois.

Here, as in earlier proposals, Staff recommended a 7-year amortization period for program investments. This time period appears to be arbitrary, breaks the correlation between benefits and costs, as many of the measures contemplated will be useful well over 7 years, and will undoubtedly raise customer costs by compressing cost recovery rather than spreading it over time. Shortening this period can result in rate shock that is concerning for all customers (especially those with low income), and it is even more critical to fix this issue considering the projected and prolonged economic downturn related to COVID-19. Allowing for a longer amortization period that reflects the value of long-life EE measures

[8] Illinois, Maryland, and New York begin with full ROE for EE investments. In fact, basis point adders can be earned in Illinois and NY for EE achievements above certain thresholds to further incentivize EE.

would immediately reduce the rate impact to customers while accelerating the implementation of EE measures. In addition, costs for these programs would be more properly allocated in line with benefits received instead of needlessly compressed as proposed.

When finalizing this Proposal, the BPU has the opportunity to implement thoughtful policies that will support the important growth and evolution of EE in the state of New Jersey as a critical tool to cost-effectively reduce GHG emissions while also creating thousands of jobs and addressing energy insecurity for customers – especially those that are low income. EEI strongly encourages this review and hopes that the Board will not just accept the recommendations in the latest Proposal but will undertake a comprehensive examination of a variety of options, including those outlined here, before choosing a final path forward.

We thank you for the time and opportunity to provide comment on this important energy matter and commend the Board for their continued focus in keeping New Jersey as a leader in EE program implementation.

Respectfully submitted,

Thomas R. Kuhn

CC: Governor Phil Murphy

From: Elizabeth Le Vaca
To: energyefficiency
Subject: [EXTERNAL] Small biz owner wants Energy Efficiency
Date: Friday, April 10, 2020 11:41:49 AM

FROM: ELV COMMUNICATIONS, LLC

TO: BOARD OF PUBLIC UTILITIES

As a New Jersey small business owner of elvcommunications, LLC I am writing to urge the BPU to invest in energy efficiency. We need to create a framework where investments in energy efficiency can really succeed, which is lacking in the current Straw Proposal.

elvCommunications, LLC is concerned that the Straw Proposal for New Jersey's energy efficiency transition plan does not include a long enough period of time to finance these investments in energy efficiency. If we do not lengthen this timeline, it'll be harder to ensure a smooth transition. This means small businesses like mine could end up feeling intense economic strain.

I also want to strongly encourage the BPU to include decoupling in the Straw Proposal. This would allow our utilities to fully invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas. Full decoupling would also encourage New Jersey residents cut down on their energy usage and save money; that's good for our state and our environment.

Sincerely,

Elizabeth Le Vaca
President
elvCommunications, LLC

From:	Karen Wilkinson
To:	energyefficiency
Subject:	[EXTERNAL] Energy Efficiency Transition – Full Straw Proposal
Date:	Thursday, April 9, 2020 2:52:53 PM

New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NewJersey 08625-0350

Attn: Aida Camacho-Welch, Secretary

As a real estate investor and property manager working in some of our state's most vulnerable communities, I ask that the BPU ensure the energy efficiency transition plan includes programs specifically targeted to disadvantaged residents. I'm concerned the current Straw Proposal falls short in this critical area, failing to include investments needed to prevent needless financial strain on our most vulnerable New Jerseyans.

With rising energy costs having a disproportionate impact on the state's low- and moderate-income residents, with some spending nearly 10 percent of their income on energy bills, the BPU must ensure the energy efficiency transition plan looks out for everyone.

To that end, the Straw Proposal should finance energy efficiency programs over a longer time frame to lessen economic impact on low- and moderate-income residents. Financing the plan over 15 years over the proposed seven years would also make for a smoother transition to energy efficiency.

Additionally, full decoupling needs to be a part of transition plan so that utilities are incentivized to help New Jersey residents lower their energy usage and reduce their energy bills. Full decoupling will encourage utilities to work with ALL residents on energy efficiency and create jobs in ALL communities across the Garden State.

Thank you for your attention to this critical matter.

Karen Wilkinson
President
Emerald Management Group Inc.
2490 Pennington Road, Suite 201
Pennington NJ 08534

ReVireo

April 13, 2020

VIA Electronic Mail
Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
9th Floor, Post Office Box 350
Trenton, New Jersey 08625-0350
EnergyEfficiency@bpu.nj.gov

Re: Straw Proposal for Energy Efficiency and Peak Demand Reduction Programs

Dear Secretary Camacho-Welch:

ReVireo is an energy efficiency and green building services company founded in 2009 and headquartered in Cranford, NJ. We are partners in both the NJ Clean Energy Program (NJCEP) Residential New Construction (RNC) and Pay for Performance (P4P) programs. We also provide energy code consulting and verification services for developers, homebuilders, and contractors throughout the State of New Jersey. ReVireo is active in the NJ Home Builders Association (NJBA) and Mixed-Use Developers Association (MXD) and advises NJBA/MXD leadership and members on matters related to energy code and above-code energy efficiency utility rebate programs.

Beyond my role as CEO of ReVireo, I am also an Executive Board Member and Treasurer of the NJ Chapter of the U.S. Green Building Council (USGBC), a member of the Energy Working Group for the Jersey City Climate Action Plan, a member of the New Jersey Passive House organization, and a lifelong resident of the State of New Jersey.

We have submitted comments in previous comments periods in November 2019 and January 2020. We appreciate the opportunity to have input into this process and that such input seems to be been considered in the development of this Full Straw Proposal. Below are our comments on the Full Straw Proposal for Energy Efficiency and Peak Demand Reduction Programs.

Support Residential New Construction and Pay for Performance New Construction to be served by the Clean Energy Program Statewide

ReVireo supports that the full straw proposal achieves the critical objective that markets for new construction (real estate developer and homebuilder) be served statewide with consistent incentives, eligibility criteria and rules across all service territories. Developers and homebuilders work across utility service territories and any differentiation between one service territory to another would create significant trepidation, hurdles, and dramatically depress participation in the long run. Having one entity continue to administer the various programs for new construction needs to ensure those programs are the same everywhere in every aspect.

Under this transition, the State entity (NJCEP or otherwise) administering these programs should also strive to achieve continuity with the programs currently offered by NJCEP, as many development/construction/renovation projects have been in the planning stages for years and any sudden major changes would significantly disrupt participation in energy efficiency programs for new construction and large building owners statewide.

ReVireo also recommends that the rebate program for new construction to use national certifications like ENERGY STAR and Department of Energy Zero Energy Ready Homes (DOE ZERH) as the only requirement for achieving rebates. Adding rebate specific requirements in addition to the national certifications create confusion for builders and developers and it makes the program more difficult to implement and enforce.

Also, developers, homebuilders, and large building owners need to be able to choose from an open market of qualified partner organizations in any energy efficiency programs for new construction or large existing buildings. This is because many developers, homebuilders, and large building owners have established relationships with one or more partner organizations, who in turn encourage participation by developers, homebuilders, and large building owners in such programs. Severing those relationships would decrease participation in such programs. Also, the various partner organizations compete with each other to keep consulting/verification costs down for the developers, homebuilders, and large building owners. This in turn reduces the cost of participation in such programs thereby increasing participation in the long run.

Support Effort to Enforce NJ UCC Energy Subcode Consistently

Currently, there is significant variation from one municipality to another in the enforcement of the Energy Subcode referenced in the NJ UCC. There are various reasons for this, but the result end result is that:

a) Many, if not most, newly constructed buildings are not actually compliant with the Energy Subcode referenced in the NJ UCC. This has a long-term effect on NJ's energy usage;
b) NJ's efforts (including NJCEP/utility incentives) to encourage developers to participate in "above code" energy efficiency programs are undercut because the actual baseline for cost comparison is, on average, less energy efficient than minimum Energy Subcode requirements since they are often consistently enforced.

ReVireo applauds the recognition of the importance of energy code compliance included in the Full Straw Proposal on pg. 53, and the idea to have an "energy codes review panel." As it is mentioned this panel could be a subcommittee of the EM&V WG, ReVireo suggests ensuring stakeholder representatives on this panel include those from the real estate development, construction, architecture, engineering, and energy consulting industries.

ReVireo fully supports energy code training for both code officials and industry professionals. Additionally, ReVireo recommends providing resources for code official to use to properly enforce the code such as checklists for permit documentation review and what energy code inspections are required. Examples of best practices of this can be found below:

Philadelphia: https://www.phila.gov/documents/energy-compliance-materials/

New York City: https://www1.nyc.gov/site/buildings/codes/energy-code-forms.page

The Energy Codes and Standards Initiative on pg. 73 and/or the "energy codes review panel" should explore mechanisms to set standards for municipalities on minimum accreditations for 3rd party verification of energy code compliance such as those used in Philadelphia. This is a short-term, cost-effective measure that can be undertaken without any additional code updates.

Also, as additional initiatives are introduced in order to achieve the goals of the NJ Energy Master Plan, ReVireo foresees that the "Flex Freeze" code adoption process may cause an unknown burden on the new construction industry due to the unpredictable way changes to the code could be adopted. ReVireo recommends that this be investigated further by either the State Lead Energy Codes and Standards Initiative, the State Lead Research and Development Initiative, and/or the "energy codes review panel."

Recommend BPU ensure Multifamily program will have the same energy efficiency programs across the state

ReVireo understands the benefits of having utilities manage the existing multifamily program, however we feel there is a need to keep the program consistent across the state. The market is more concentrated than other existing building types, with management companies and organizations holding properties across service areas. We believe it is of utmost importance to keep the programs the same across utilities since changes in programs across utilities will create trepidation and hurdles that could impact overall participation from such building owners.

Thank you for taking the time to review to our comments throughout this extended process. We appreciate the efforts taken by all to develop this detailed plan for the benefit of our state.

Very truly yours,
Matthew Kaplan, MBA, LEED AP
CEO

ReVireo
Direct: (732) 853-8338
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April 13, 2020

Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 S Clinton Ave 9th Floor
Trenton, New Jersey 08625

Comments of Gabel Associates on the Board of Public Utility Staff Final Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs

Dear Secretary Camacho-Welch:

Gabel Associates, Inc. ("Gabel Associates" or "Gabel") appreciates the opportunity to provide comments on the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs, released by the New Jersey Board of Public Utilities ("BPU" or "Board") Staff ("Staff Proposal") on March 20, 2020. We also commend Staff on the development and organization of the Staff Proposal and for taking the time to review stakeholder comments and incorporate changes.

Executive Summary

These comments focus on the expansive Staff Proposal which contained proposals for nearly every aspect of energy efficiency policy, program design, implementation, and evaluation. We address numerous important topics throughout this document, including the proposed, schedule, low- and moderate-income programs, cost recovery and lost revenue, goals, targets and evaluation, and some individual programs and filing requirements.

Based on its review of the Staff Proposal, Gabel Associates recommends that the Board adopt a series of amendments which will allow New Jersey to reach the ambitious goals set forth in the Clean Energy Act and most the state to a national leadership position.

Among the most critical recommendations are that the Board should:

- Amend the schedule for schedule and roll-out of energy efficiency programs (as shown in Appendix A), for the timing of a) the submission and review of first three-year filing;[1] and b) the triennial review heading into the second three-year filing. These revisions are needed to allow administrators and stakeholders (including Division of Rate Counsel) the

[1] This schedule does not preclude the Board from reviewing and approving early filings

opportunity to develop programs and build consensus; real all customer grounds; and succeed.

- Increase funding and participation of the Comfort Partners program to reach more of New Jersey's low- and moderate-income customers. This program should be funded and operated by the utilities, and not as a co-managed program to avoid delays in program design modifications and funding. Additional low- and moderate-income programs should also be encouraged.

- Increase the annual contribution of savings from New Jersey Clean Energy Program ("NJCEP") to account for the energy savings from programs being retained by the Division of Clean Energy ("DCE"). These programs, especially the codes and standards segment, have substantial savings opportunities, and these should be reflected in the DCE targets.

- Reduce the highly restrictive requirements related to shifting program budgets within and between sectors. The CEA energy savings goals are ambitious and program administrators will need maximum flexibility to make adjustments to optimize program performance, especially in the first program cycle when programs are first being implemented. As long as program implementors do not exceed the authorized portfolio budget, there should be flexibility on transferring budgets between programs.

- Implement a form of decoupling, or a modified version of the Conservation Incentive Program ("CIP"), as the preferred lost revenue recovery mechanism to align customer and utility interests, provide consumer protections, and avoid the regulatory burdens associated with other lost revenue adjustment mechanisms such as LRAM.

- Amend the ratemaking for utility cost recovery (particularly the rate of return on equity and the amortization period) to prevent investments in energy efficiency from being investments which are less financially attractive to utilities. Ratemaking should provide a financial incentive for utilities to be "all-in" in pursuing aggressive energy efficiency results. A reduction of return on equity or a diminished amortization period do the opposite.

- Require that energy savings targets be measured based on verified savings (based upon approved protocols), rather than on evaluated savings. Evaluation results should be used prospectively to implement future adjustments to targets and programs and should not be used retroactively to adjust program achievement that was formulated based upon Board approved or Board required assumptions.

The changes recommended herein will give program administrators and the BPU the opportunity to meet or exceed the ambitious energy savings targets required under the CEA.

Organization of this Submission

The comments and recommendations contained herein are organized by topic and provide our view on the most important issues in the Staff Proposal that should be addressed. The comments are organized into the following sections:

The numbered sections address specific topics and include multiple subjections focused on particular design elements within each topic. These subjections provide: a) a summary of the design element contained in the Staff Proposal; b) a discussion of its merits; and, c) a recommendation for a more reasonable or effective design.

The Key Recommendations section walks through most of the important topics and recommendations offering in our comments, while the Summary of Recommendations Section contains each specific recommendation offered within this document in a condensed format for ease of reference.

Background on Gabel Associates

Gabel Associates is an energy, environmental and public utility consulting firm with its principal office located in Highland Park, New Jersey. We have spent decades working in and studying energy markets in New Jersey, and have extensive experience in energy efficiency design and implementation, and incentive ratemaking, including our two principals, who both served as senior managers at the New Jersey BPU and Brendon Baatz, Gabel Vice President, who formerly led the Utility Programs at the American Council for an Energy-Efficient Economy ("ACEEE").

Our work with all types of clients implementing energy efficiency provides a balanced perspective that we hope will be informative to the BPU. For example, we provide extensive consulting services to utility customers including hundreds of school districts, counties, and businesses. We also assist electric and natural gas utility companies develop and design cost effective energy

efficiency ("EE") programs. Specifically, we have worked or are currently working on EE related activities with Atlantic City Electric Company ("ACE"), Public Service Electric and Gas Company ("PSE&G"), Elizabethtown Gas Company ("Etown"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG"). Because of the breadth of sectors where we provide our services, we have a deep and balanced sensitivity to the needs of all types of energy market participants.

These comments support previous recommendations provided by Gabel Associates throughout the stakeholder process, including our written comments to the Draft Market Potential Study of May 16, 2019,[2] Cost Recovery Technical Meeting of October 31, 2019,[3] Second Cost Recovery Technical Meeting of December 3, 2019,[4] Transition Cost Recovery Mechanism Draft Proposal of February 6, 2020,[5] Application of Utility Targets Proposed Target, Metric and QPI Structure of February 11, 2020,[6] as well as all the in-person or virtual stakeholder meetings, including the webinar to discuss the Final Staff Proposal held on April 1, 2020.

Key Recommendations

This set of comments provides a comprehensive view on a number of issues that required being addressed in the Staff Proposal. In-depth discussion on each of the issues is provided in section 1-5 of this document. However, some key recommendations and insights are summarized below:

1. The proposed schedule should be revised to allow for effective input from stakeholders (including but not limited to the Division of Rate Counsel) and to allow adequate time for planning and detailed program development, and for collaboration with other entities in the state. A proposed alternate schedule that addresses the needs of all parties is attached as Appendix A. [on page 7]

2. There should be no penalties or incentives assessed for the first three-year period while utilities are establishing programs and transitioning programs away from DCE. Utilities will ultimately be responsible for meeting the energy savings goals in the CEA and will be working closely with BPU on tracking progress. Implementing penalties and incentives in the first three-year cycle is unnecessary and not required under the CEA. It is also unclear how the pandemic may affect program uptake in the first few years because of the pending recession, which is another reason to avoid penalties or incentives in year one. [on page 24]

[2] Page 81: https://www.njcleanenergy.com/files/file/public_comments/FY19/CombinedCommentsRev2.pdf
[3] Page 80: https://www.njcleanenergy.com/files/file/Comments%20Cost%20Recovery%20I.pdf
[4] Page 272: https://njcepfiles.s3.amazonaws.com/Comments+Cost+Recovery+II.pdf
[5] Page 29: https://www.njcleanenergy.com/files/file/public_comments/Cost%20Recovery%20Comments%202_6_2020.pdf
[6] Page 38: https://www.njcleanenergy.com/files/file/public_comments/All%20Comments%20EE%20Transition%20Application%20of%20Utility%20Targets%202_11_20.pdf

3. Assessment of progress to goals should be measured based upon verified savings, not ex post evaluated savings as suggested in the Straw. It's unreasonable to penalize administrators who meet their participation targets because of retroactive adjustments to Board-approved savings estimates that were developed using best available information (such as the approved protocols). [on page 20]

4. The targets should be based upon gross, not net savings. The language in the Clean Energy Act explicitly removes many of the factors used to convert gross savings to net. Net savings estimates are also dependent on contentious studies that rely on customer survey results. [on page 19]

5. Ramp rates should be proposed by utilities in their filings, who will develop portfolios based on unique demographic and other characteristics and then be subject to BPU review. The Board should not proscribe specific ramp rates in its decision in this matter. [on page 16]

6. The Staff Proposal does not provide any incentives or drivers to increase delivery of programs to low- and moderate-income communities. In fact, the weighting of the quantitative performance metrics incentivizes utilities to focus less on low- and moderate-income to improve the utility cost test metric. Working groups should develop specific low- and moderate-income goals for single and multifamily during program year one of the first three-year cycle. The working group should also consider measures to overcome the health and safety barriers that limit program participation. Program administrators should also propose meaningful targets in three-year plans that can be updated based on the targets developed by workgroups. [on page 9 and on page 10]

7. BPU should eliminate the cost caps proposed in Appendix E, which are not based on New Jersey data and will be severely outdated by the time utilities file program plans. Instead, utilities should be encouraged to develop all cost-effective energy efficiency. [on page 22]

8. The cost recovery approach should be commensurate with other utility investments. Any basis point reduction should be eliminated on EE investments and amortization should be based upon measure life, just like with other utility investments in order to make it in the utilities financial interest to invest and commit to widespread EE growth. [on page 11 and on page 12]

9. A form of decoupling, or a modified version of the CIP, should be the preferred lost revenue recovery mechanism so that utilities are "all-in" on pointing their operations and changing culture to be efficiency centric. [on page 13]

10. The NJCEP savings contribution should be increased because of the large savings opportunities available within the programs proposed to be administered by DCE. In

particular the estimate does reflect savings related to the codes and standards program and implementing a retail products programs, both large savings opportunities. [on page 15]

11. The Societal Cost Test should be the primary test used to evaluate program cost-effectiveness. This is consistent with the Clean Energy Act which requires cost effectiveness screening to be based upon economic and environmental factors. The goals proposed in the Potential Study were also based on cost effective potential based on the societal cost test, so deviating from this test would reduce the efficiency that could be developed in the State. [on page 23]

12. Energy savings goals should be set based upon the goals in the Clean Energy Act (2.0% electric and 0.75% natural gas) until the next potential study is conducted based upon New Jersey specific data. [on page 14]

13. All the co-managed program should be run by utilities and funded through utility riders to allow for more stable funding and increase direct customer connections but reviewed by DCE and approved by the Board. This will also free up substantial funds from the DCE budget for alternate use (or reduction in the Societal Benefits Charge (SBC)) as determined by the Board. [on page 26]

14. The Board should not proscribe specific evaluation guidelines, schedules, and other evaluation policy issues in the straw proposal. These details should be developed by the Evaluation, Measurement & Verification ("EM&V") workgroup while they undertake the drafting of the New Jersey Statewide Evaluation Framework. [on page 21]

15. The Board should not proscribe net to gross ratios for program administrators. Instead program administrators, who are the entities exposed to evaluation risk, should propose net to gross ratios for their own programs. [on page 20]

16. The codes and standards program should be designed by DCE (with participating from utilities and other stakeholders), not run through a workgroup under the EM&V process. This program provides significant savings in other jurisdictions, upwards of 40% to 60%. Instead of creating a review panel to run through other workgroups, the DCE should issue an RFP to hire an implementer to design and implement this critical program. [on page 25]

17. The BPU should allow maximum flexibility to program administrators in moving budgets from one program to another and between sectors. The current program flexibility proposal is far too restrictive and will hurt program performance. [on page 27]

18. The BPU should allow utilities and DCE to create a new brand for the new programs. The existing brand does not identify with energy efficiency (covers all clean energy). A new brand gives the program an opportunity to send a new, strong signal to the public and program implementers in New Jersey. [on page 28]

1. Proposed Schedule

The schedule of events contained in the Staff Proposal on page 76 should be revised to allow for effective collaboration, planning and program development. The schedule should provide adequate time for parties to understand the energy efficiency environment and plan new and innovative ways to approach the marketplace.

a. First Three-Year Plan Schedule

Staff Proposal: The Staff Proposal contains a schedule that requires all utilities to file three-year plans in "Late Summer 2020: Utilities submit program filings" (p19) which is only a few months following the planned issuance of a Board Order in May outlining the policy guidance needed to conduct the planning and program development process. The Board would then have eight months to review the plans prior to issuing "Anticipated Board action on filings" (p55/p76) in April of 2021. Then, the utilities would only have a few months following the issuance of the three-year plan order to secure contractors and other vendors when in "July 2021: New energy efficiency/peak demand reduction programs begin." (p19)

Discussion: The schedule contemplated in the Staff Proposal would only give utilities a few months to conduct planning, program design, and complete filings for the first three-year cycle. This is less than half the time the BPU is allocating for its review of the filings. Developing these filings is very time intensive and requires a substantial amount of work, collaboration, and coordination among many entities, including among utilities and state agencies including the BPU. It would be incredibly aggressive for a standalone program facing just a renewal or moderate expansion of programs. The Staff proposal is a major transfer of programs serving existing markets, a major increase the level of energy savings being pursued, and very high level of utility coordination, which would be one of the most intensive energy efficiency flings to date in New Jersey.

While many of the utility programs could be similar to the current DCE programs (i.e. C&I Existing Buildings), it is still a considerable undertaking to design the programs, especially because the BPU is looking for utilities to undertake a "deep dive" and propose aggressive, nation-leading programs. Many of the assumptions and underlying data used by DCE in program design is inaccessible to the utilities and is likely outdated. This will require utilities to essentially redesign every program from scratch, including conducting the market research necessary to accurately forecast participation for every measure in every program.

The BPU is also expecting coordination among utilities on program design, incentives, and other program details for many programs to ensure statewide consistency. A statewide effort requiring collaboration from every utility in the state and BPU staff is a substantial undertaking and will require months of planning meetings. Allowing only a few months from the Board Order establishing guidance to utility filings in late summer is simply not enough time to adequately plan and collaborate on issues of joint program administration. A rushed process will lead to suboptimal outcomes, including a more challenging regulatory review process.

Recommendation: Gabel Associates recommends the Board allow additional time for utilities to file the first three-year plans. Utilities should be required to file three-year plans by October 31, 2020, with an expected Board Order by May 1, 2021. Programs would then commence on July 1, 2021. The additional time would allow some necessary time for utilities to plan programs to meet the aggressive energy savings goals outlined in the CEA. These proposed dates would not preclude the Board from reviewing or approving early filings. The additional time would also allow the necessary time for collaboration among parties to optimize core and co-managed program success. BPU should also provide all program data for any programs being transferred to utilities to facilitate an orderly and successful handover of programs.

b. Subsequent Timeline and Triennial Review

Staff Proposal: The Staff Proposal outlines a process whereby "Every three years and ahead of utility program filings, Staff will develop recommendations for the Board related to the program goals and expected utility performance for the subsequent cycle" (p30) and will "include both policy-based metrics" (p30) and "utility-specified targets." (p30) This process will be known as the triennial review, and "Utility and NJCEP targets will be adjusted through the triennial review based on the findings of these studies and in keeping with the CEA's requirements." (p32) The triennial review will revisit several significant policy decisions in the Staff Proposal including, savings targets, metrics, weighting structure, cost recovery mechanism, and performance incentive/penalty structure. This review will rely on many studies including program evaluations, baseline studies, an updated market potential study, New Jersey Protocols updates, a demographic study, and utility performance reports. The review will also be informed by various reports and findings completed by the workgroups.

Discussion: The triennial review is intended to inform program design updates that will be necessary to hit the five-year energy savings target required under the CEA. However, the triennial review process as proposed in the Staff Proposal will again place utilities in an unnecessarily challenging schedule. The Order containing the BPU's recommendations on the issues related to the triennial review, including metrics, metric weighting, and energy savings targets, should be issued *at least* seven months prior to the filing deadline for utility plans. If utilities are required to submit the second three-year filings on November 1, 2023, then the final Board Order on the triennial review should be issued no later than March 31, 2023.

If the BPU intends on conducting an update to the market potential study, Gabel Associates also recommends this process be conducted during the beginning of the second year of the first three-year cycle (summer 2022). This would allow sufficient time for the Board to complete the market potential study with meaningful input and participation from stakeholders, while delivering a final version of the market potential study to all workgroups, which would support the triennial review stakeholder process. The market potential study should also be informed by baseline studies for all sectors. The baseline studies should be conducted by the EM&V workgroup, which should complete them by the end of program year 1 (June 2022).

Recommendation: A proposed alternate schedule is attached as Exhibit A. Gabel Associates recommends the BPU modify the program filing timeline to allow utilities the necessary runway to conduct program planning. The modifications necessary would require the EM&V working

group to begin the market baseline studies in program year one, which will inform the market potential study update in the first quarter of program year two. The market potential study update, and the several other studies, could then be used by the Board to develop a straw proposal of potential triennial review changes, which would then undergo the stakeholder process comment period prior to a final Board Order by the end of the third quarter in program year two. This would allow utilities all the information necessary to conduct program planning over a seven-month planning period prior to filing by November 1, 2023. This process would also allow the necessary time needed to conduct each study properly with additional time for stakeholder input. An expanded outline of this schedule is attached as Exhibit A.

2. Low- and Moderate-Income Population

The Staff Proposal (page 71) should be refined to significantly enhance the State's efforts in program design and delivery to low- and moderate-income energy users. The Staff Proposal recognizes (page 29) that there is more work to be done and contains recommendations to establish a low- and moderate-income working group, ensuring that Comfort Partners will continue, and outlining a performance metric for low- and moderate-income program performance in program years 4 and 5.

a. Comfort Partners as Co-Managed

Staff Proposal: The Staff Proposal includes Comfort Partners as a "co-managed" program, inferring that "The State should continue its role in setting program objectives, oversight, and participating in program management, while the utilities manage and support the program's day-to-day operations and adherence to best practices." (p71) It appears that the program would function exactly how it has previously with funding continuing to come directly from the societal benefits charge ("SBC") and the utilities still directly delivering the program to end use customers. The utilities would also be responsible for meeting performance goals and savings targets for Comfort Partners.

Discussion: As stated above, it is unclear how this program would be designed and delivered under a co-managed structure. Currently the program is funded through the SBC, budgets are established by NJCEP, and the utilities deliver to end-use customers. However, the funding levels are determined on a one-year basis and are often inconsistent year to year. Funding delivered through the SBC also has several challenges, including the fact that these funds are subject to reallocation during the State budget process for other government uses and contracts with vendors are required to flow through the NJ Treasury, which has historically led to delays.

The energy savings goals for the co-managed programs, including Comfort Partners, would also be the responsibility of the utilities under the current straw proposal. It would be unreasonable to hold utilities accountable for performance in a program in which they do not control funding levels or contracting processes. This will be even more of an issue when utilities would be subject to penalties for poor program performance. As of now, the Board intends to weight the performance penalty metric with only 10% of the value for low- and moderate-income program performance,

while other factors are weighted much higher. This indicates that other factors are more essential than low- and moderate-income performance.

The Comfort Partners program has also been underfunded and has underproduced in savings. According to The Energy Efficiency and Peak Demand Program Administration Straw Proposal, released on December 20, 2019, Comfort Partners is estimated to provide 1% of the electric savings portfolio and 3% of the natural gas savings portfolio. Shifting these programs to be funded and managed by utilities will allow for a significant increase in funding with reduced rate impacts.

Recommendation: Gabel Associates recommends Comfort Partners be shifted to utility managed with NJCEP collaboration and oversight. If utilities are going to be responsible for the performance of the Comfort Partners program with penalties and incentives for their performance, they should maintain budget setting, vendor contracting, and program design responsibilities. All of these aspects would also be overseen by the BPU. The Board should also consider additional low- and moderate-income focused programs and minimum spending levels for the low- and moderate-income programs to assure that this segment is equitably served.

b. Weighting of Low- and Moderate-Income Metric

Staff Proposal: The Staff Proposal sets the weighting of Low- and moderate-income Lifetime Savings for years 4 and 5 at 10% of the evaluated metrics. The Utility Cost Test (UCT) Net Present Value (NPV) of Net Benefits is set at 35%. (p81)

Discussion: The Staff Proposal puts a high emphasis on achieving high net benefits on the UCT in the context of the performance metric proposal. The UCT measures utility spending vs benefits; therefore, utilities are encouraged to minimize spending and maximize savings to meet the threshold for this metric. While altruistic in design, in practice use of this metric will lead to more expensive programs with deeper savings being cut at the expense of cheaper savings.

Low and moderate income and small business programs are generally higher cost and placing a higher emphasis on these programs will reduce the UCT net benefits when compared to other lower cost savings opportunities. The relatively low weight on other policy goals, including low- and moderate-income and small business program metrics will lead program administrators to place a significant focus on the UCT net benefits result, likely at the cost of reduced performance in low- and moderate-income or small business program performance. These statement that low- and moderate-income is a priority is in conflict with that actual metric weights contained in the Staff Proposal.

Recommendation: Gabel Associates recommends the Staff Proposal remove any potential weighting factors or metrics for program years 4 and 5 and revisit these issues during the first triennial review period. The development of specific performance metrics and weighting structure is a complicated and time intensive process. The final metrics will likely be very different than those envisioned in the current Market Potential Study. However, if the BPU does decide to include performance metrics and weighting structures in the final version of this Staff Proposal, Gabel Associates recommends that savings for low- and moderate-income energy users be prioritized, and that the BPU recognize that low- and moderate-income savings are more difficult to reach, are

often more expensive, and therefore is at odds with the UCT requirement to reduce costs. This recommendation would likely require the Board to reduce the emphasis on the UCT net benefits and increase emphasis on first year and lifetime energy savings, to balance the priorities of the policy goals outlined in metrics.

3. Cost Recovery and Lost Revenue

The Staff Proposal included some updates to previous recommendations on utility cost recovery but is mostly unchanged from prior versions. Cost recovery should allow utilities an opportunity for timely recovery of all costs, earnings opportunities commensurate with other utility investments, and a performance incentive/penalty structure that strongly encourages high performance. Gabel Associates does not believe the current proposal meets these objectives.

a. Basis Point Reduction

Staff Proposal: The Staff Proposal recommends that utility investments should "utilize the capital structure established in each utility's most recent base rate case, incorporating both (a) the cost of debt and (b) the return on equity ("ROE") less 100 basis points." (page 39)

Discussion: The Staff Proposal explicitly states that "energy efficiency programs will not ultimately be successful if the proposed mechanism negatively impacts a utility's economic bottom-line or if such programs are considered a less attractive investment than traditional infrastructure." (p10) However, the basis point reduction contained in the Staff Proposal clearly does just that: it negatively impacts a utility's economic bottom-line by making energy efficiency a less attractive investment. For New Jersey to meet the goals of the Clean Energy Act and move New Jersey to a national leadership position, utilities need to be "all-in" and a return that is less than it would otherwise be authorized would be strongly contrary to these goals.

Simply because the utilities will recover these costs in a surcharge or rider is not sufficient to support a lesser return on equity. In fact, the Board already allows water utilities full equity return on its infrastructure investments that receive annual review and a recovery clause through the Board's Distribution System Improvement Charge ("DSIC") rule which explicitly allows a full return on equity. Certainly, the Board should allow a full return for electric and gas utilities to pursue EE as it does for them (and water utilities) to construct pipes and wires.

In addition, the Staff Proposal (page 39) states that investment in EE is less risky for utilities for utilities. This conclusion does not recognize that significant risks still exist for utilities in New Jersey on recovery of energy efficiency costs. The current stakeholder processes are answering many of these questions, including lost revenue recovery, utility target setting, establishment of quantitative performance indicators, savings evaluation protocols, and other policies that significantly affect the ability of utilities to receive timely and ongoing cost recovery of these investments. But until these questions are answered, it is impossible to assess a change to the return on equity based on perceived risk because this risk is still undefined, and these issues are best addressed in a base rate case where all risks to utility equity can be evaluated. Further the Staff

Proposal places penalties and incentives on performance by utilities; these penalties and incentives present a risk that is not present for traditional infrastructure investments.

Recommendation: Gabel Associates recommends utility investments in energy efficiency receive a ROE equal to the ROE authorized in the previous rate case for each utility. The ROE should be determined in each base rate case proceeding, not in an energy efficiency rulemaking process, and the Board should holistically consider factors such as risk, investment type, and return for peer utilities when deciding the ROE level.

b. Amortization Period

Staff Proposal: The Staff Proposal recommends that "program investments will be amortized over a seven-year period." (p38)

Discussion: The BPU regularly evaluates depreciation periods through the base rate case process. Determining an appropriate depreciation period is typically an engineering exercise which uses industry standard practices and procedures to calculate the useful life of a piece of equipment and match the return of this investment with its useful life. In this context, energy efficiency equipment is no different than traditional 'wires' or 'pipes' investments. The engineering and evaluation studies on energy efficiency measures should stand as the basis for determining the appropriate amortization period. An asset's useful life, rather than an arbitrary amortization period of seven years, should be used. A seven-year depreciation period for every energy efficiency expenditure is arbitrary and does not align with traditional ratemaking principles.

The amortization period for energy efficiency investments should be determined according to the weighted-average useful life of all of the measures contained within an energy efficiency portfolio. This aligns costs with the timing of benefits, reduces rate impacts over time, and more closely matches ratemaking practices for other utility investments.

Looking at recent history, the Fiscal Year ("FY") 2020 TRC Compliance Filing[7] is predicated on a useful life of approximately 15 years for electric measures and approximately 19 years for natural gas measures. The 2018 Energy Efficiency Filings from New Jersey Natural Gas Company and South Jersey Gas Company had weighted-average measure lives of approximately 16 years. The 2018 Energy Efficiency Filing from Elizabethtown Gas Company had a weighted-average useful life of approximately 10 years. The 2019 Energy Efficiency Filing from Public Service Electric and Gas Company had a weighted-average useful life of approximately 15 years.

Recommendation: Gabel Associates recommends an amortization schedule for energy efficiency investments based on the weighted average lifetime of the portfolio. To the extent the BPU wishes to deviate from standard ratemaking practice and preselect an amortization period, the period should more closely match the useful life of recent energy efficiency filings. Therefore, the useful life should be set at no fewer than 10 years, as is consistent with the shortest amortization period filed in recent Energy Efficiency Filings before the BPU.

[7] Appendix G: FY20 Program Goals and Performance Metrics, page 148
https://www.njcleanenergy.com/files/file/Library/6c%20-%20FY20%20TRC%20Compliance%20Filing%20%20v6%20w%20App%20J%20v3_3.pdf

c. Lost Revenue Recovery

Staff Proposal: The Staff proposal states a preference for a Lost Revenue Adjustment Mechanism ("LRAM"), while also remaining open to decoupling proposals from utilities in the context of a base rate case. The Staff Proposal states that utilities "will annually be able to file for and recover lost revenues in the amount that they can demonstrate were attributable to the utility-run energy efficiency and peak demand reduction program(s)" (p40) and that "only lost revenues associated with the utility's distribution base rates will be recoverable through the LRAM." (p41) The Staff Proposal also "clarifies that staff does not recommend eliminating the CIP. Staff specifically seeks input on the proposed method of lost revenue adjustment compared to or combined with a CIP and further seeks input on CIP design for EDCs" (p10) and that "The Board retains its ability to consider and approve other decoupling mechanisms." (p40). Finally, it also states that "Staff's view is that such proposals are best reviewed and tested in the context of a base rate case". (p41)

Discussion: The Staff Proposal correctly clarifies that utilities currently implementing the CIP, a form of decoupling already approved for two natural gas utilities in the state, may continue to do so, and that other utilities should be permitted to file for decoupling mechanisms as well. However, the primary form of lost revenue recovery preferred in the Staff Proposal is the LRAM. The LRAM does not remove the throughput incentive for utilities, and because the LRAM only allows for savings attributable to utility-run programs, successful NJCEP programs will financially harm utilities and create an environment whereby utilities may not be willing partners in promoting non-utility programs throughout the state; and will not have incentive to move their corporate cultures to one which embraces efficiency and conservation efforts by its customers.

In addition, the LRAM allows for circumstances where a utility can both expand revenues by increasing sales and collect lost revenues for its own energy efficiency programs, creating conflicting incentives. Alternatively, decoupling and the CIP can mitigate these costs as growth in sales is returned to ratepayers, reducing the impact of lost revenues. Based upon a high-level state-wide electric analysis using data from EIA and PJM, we calculated that a decoupling mechanism similar to the CIP could save customers $326 million as compared to an LRAM over the next five years.

The Staff Proposal also contends that the best place to review alternatives to the LRAM is through a base rate case. While in the abstract a rate case is an appropriate venue for evaluating either type of recovery mechanism, during the transition period utilities should be free to propose a recovery mechanism of their choosing without opening a new rate case proceeding.

Recommendation: Gabel Associates recommends that the Board find that a modified CIP or CIP-like mechanism is the preferred approach for lost revenue recovery. In addition, utilities should be allowed to propose any form of lost revenue recovery at this time, outside of a rate case, in order to facilitate the growth of energy efficiency in New Jersey. These mechanisms can be amended or updated during the next base rate proceeding.

4. Goals, Targets, and Evaluation

The Staff Proposal has a number of goals, targets, and evaluation criteria that place unrealistic expectations on program administrators.

a. Overall Savings Targets and the Clean Energy Act

Staff Proposal: The Staff Proposal indicates the targets set forth in the Clean Energy Act (2.0% for electric and 0.75% for gas) should be achieved in year 3 for gas utilities and between years 4 and 5 for electric utilities. Further, the total overall savings goals will greatly exceed those of the Clean Energy Act, with the Staff Proposal calling for a net reduction of 1.1% for gas consumption and 2.15% for electric consumption.

Discussion: The targets in the Staff Proposal were developed based upon the findings of the Market Potential Study. During and after the stakeholder process regarding the Market Potential Study in early to mid-2019, it became clear (as reflected in the comments of almost of every stakeholder) that the study performed by Optimal and submitted to the BPU was technically flawed, did not rely on any primary data in New Jersey, and was extremely limited in scope. Due to a variety of technical and due process limitations, it would be unreasonable to use it as basis for setting the targets and other metrics in this matter. For example, the Potential Study did not have transparent assumptions, did not use New Jersey primary data or studies, placed an unrealistic reliance on certain technologies (such as AMI, heat pumps, furnaces, low-flow shower heads, etc.), and therefore cannot be considered to represent the maximum achievable savings.

It should be recognized that the Potential Study has not been fully evaluated, and that in accepting the Potential Study, the Board and DCE staff made it clear that it was only being accepted for filing with the legislature to satisfy the statutory requirement to perform the study and that it had no further value beyond that until it was subject to fuller review. Such review has yet to occur.

The use of the Potential Study does not represent reasonably achievable targets for utilities. The Potential Study did not disclose many of the assumptions supporting the results, and those that were released were unrealistic, such as the ramp rates, the reliance on certain measures to carry program savings, the lack of demographic and firmographic diversity across utility service territories, and the assumption that there was no limit on incentive payments.

The Staff Proposal also unfairly expects gas utilities to reach the 0.75% goal by year three of program administration. That goal will be extremely difficult, and the Potential Study, among its many issues, only indicated it was possible with no limit on incentive payments. As it is not realistic to assume that the BPU will approve unlimited incentive payments, it is also unrealistic and unreasonable to assume utilities will be able to scale up and hit the targets as quickly as projected in the faulty and untested Market Potential Study. Furthermore, the likely recession driven by the pandemic will also reduce the likelihood of participation for impacted residential customer and businesses.

Recommendation: Gabel Associates recommends that the BPU allow utilities to propose reasonable achievable targets in their first three-year program filings. This will allow utilities to

tailor specific savings targets for their service territories. Goals for years 4 and 5 should be revisited following the completion of the baseline and updated market potential studies.

b. NJCEP Annual Energy Savings Targets

Staff Proposal: The Staff Proposal includes NJCEP Annual Energy Savings Targets which are to be "subtracted from the utility-specific overall energy savings targets in order to derive the "Utility Program Annual Energy Savings Target(s).”" (p33) The NJCEP Annual Energy Savings Targets are set at 24% of electric savings each year and 26% of gas savings each year. The following chart contains the NJCEP Annual Energy Savings Targets contained in the Staff Proposal.

Year	Electric Target	Gas Target
1	0.1770%	0.0652%
2	0.2600%	0.1304%
3	0.3430%	0.1955%
4	0.4250%	0.2477%
5	0.5080%	0.2868%

Discussion: The NJCEP Annual Energy Savings Targets are designed to remove the savings obligation expected to be provided by the NJCEP programs from the Overall Savings Targets in order to identify the magnitude of savings required from utility administered programs.

A review of the Energy Efficiency and Peak Demand Program Administration Straw Proposal, released on December 20, 2019 provides some guidance on how the NJCEP Annual savings Targets were developed. Figures 1 and 2 provide the Straw Proposal Recommendations on program administration and contain savings expectations by program, where all the savings projections add up to 100% of total savings.

For electric savings, figure 1 shows "State" programs of Pay for Performance – New Construction 9%, State Government – Energy Savings Improvement Program & Local Government Energy Audit Program 9%, Combined Heat & Power/Fuel Cell Program 5%, and New Construction 1%. These four programs sum up to 24%, the exact percentage estimate of electric savings contained in the Staff Proposal. However, the Consumer Products & Lighting Programs 19% was assigned to utilities in the Energy Efficiency and Peak Demand Program Administration Straw Proposal, but to NJCEP in the Staff Proposal. While the Consumer Products & Lighting Programs do contain some subprograms assigned to be co-managed (marketplace, appliance recycling), at present, over 90% of all savings in this program are attained from lighting measures which are expected to be retained by NJCEP. As long as NJCEP is administering the products program, which we recommend be moved to the utilities, the NJCEP Annual Energy Savings Targets should be at least 19% more, or 43% of each years Overall Savings Target.

In addition, the NJCEP Annual Energy Savings Targets do not account for any savings from the codes and standards program. In many of the leading states for energy efficiency, codes and standards programs are the backbone of state-wide savings, **providing upwards of 40% to 50% of total savings for energy efficiency programs.** The savings expected to be generated through

codes and standards must be included in the accounting of savings, and being that the administration of codes and standards has been assigned to NJCEP, it should be included in the NJCEP Annual Energy Savings Target and netted out from the Utility Program Annual Energy Savings Target.

Recommendation: Gabel Associates recommends the NJCEP Annual Energy Savings Targets be increased to match the appropriate level of savings expected from the programs being retained by the State. That includes inclusion of the retail products program (should NJCEP administer that program, which we recommend be moved to utilities) and the codes and standards program. The following chart illustrates a more accurate estimate of the NJCEP Annual Energy Savings Target:

Year	Electric		Natural Gas	
	Staff Proposal	**Gabel Proposal**	Staff Proposal	**Gabel Proposal**
1	0.1770%	**0.4193%**	0.0652%	**0.1205%**
2	0.2600%	**0.6150%**	0.1304%	**0.2410%**
3	0.3430%	**0.8107%**	0.1955%	**0.3615%**
4	0.4250%	**1.0064%**	0.2477%	**0.4579%**
5	0.5080%	**1.2021%**	0.2868%	**0.5302%**

The Gabel Proposal in the above chart is predicated on inclusion of both the retail products and codes and standards programs. The retail products program was adjusted downward to account for the fact that potential from lighting savings will be greatly diminished in the future. The codes and standards program was assumed to provide 30% of portfolio savings, much lower than the actual achieved savings in other jurisdictions. To the extent New Jersey is able to overperform the 30% estimate, which is extremely conservative, then the NJCEP Annual Energy Savings Targets should be increased upward from this Gabel Proposal.

c. Ramp Rates

Staff Proposal: Electric utilities will have to improve (i.e. scale) their results by 0.35% each year and gas utilities will have to scale at 0.25% each year. (p79-82) The following chart contains the targets in the Staff Proposal as well as the ramp rate and year over year change.

Year	**Electric Target**	**Ramp Rate**	**% Change**	**Gas Target**	**Ramp Rate**	**% Change**
1	0.75%			0.25%		
2	1.10%	0.35%	47%	0.50%	0.25%	100%
3	1.45%	0.35%	32%	0.75%	0.25%	50%
4	1.80%	0.35%	24%	0.95%	0.20%	27%
5	2.15%	0.35%	19%	1.10%	0.15%	16%

Discussion: The Staff Proposal requires utilities to plan to use the overly ambitious ramp rates contained in the Potential Study, which require electric utilities to achieve 0.75% savings in year one and 2.15% savings in year five, an increase of 0.35% saving each year. It requires gas utilities

to achieve 0.25% in year one and 1.10% in year five, an increase of 0.25% in the early years and de-escalating to 0.15% in the final year. The Staff proscribed ramp rates are the same for all utilities, irrespective of whether or not the utility is already running programs.

According to the ACEEE 2019 State Energy Efficiency Scorecard, under this proposal, electric utilities, will need to more than double the current savings achieved in the State in just the first year of program administration, than increase them again by 50% in year two. Natural gas savings are already achieving year one targets, but the Staff Proposal will require doubling the savings in year two, and year three will require a 50% jump in savings again.

The Potential Study cites the ACEEE annual state scorecard as a source of ramp rates. However, the comparison of ACEEE state scorecard data year to year should not be relied on for several reasons. ACEEE has not used a consistent methodology in tracking savings achieved by utilities across past analyses, making a comparison of ramp rates from year to year unreasonable. Other research by ACEEE has shown that the average ramp rate of top performing program administrators was 0.19% per year.[8] Furthermore, the Market Potential Study is based on historic performance prior to the changes in residential lighting standards, which dominated portfolios during that time. New Jersey utilities will have to rely much less on 'low hanging fruit', such as residential lighting, and ramping up to higher savings levels will be more challenging than in previous years. Also, participation will likely be reduced in early years as the State recovers from the recession driven by the ongoing pandemic.

In addition, the proposed 0.35% ramp rate outlined in the Potential Study exceeds those cited in the literature review provided in Section 2 of the Potential Study and exceeds the ramp rates experienced in Massachusetts, a leading state in energy efficiency. Finally, a Market Potential Study is not intended to be a program planning document. It is intended to be one source of information used to develop programs. This market potential study did not rely on any New Jersey specific primary data and the theoretical ramp rates should not be used proscriptively by the Board.

Recommendation: Gabel Associates recommends that the annual ramp rates be proposed by each utility in its program filing. This will allow utilities to tailor the expected program growth to the specific characteristics of their service territory. By allowing utilities to propose specific ramp rates, it also accounts for the fact that much of the easier to achieve savings from the 'low hanging fruit' in the efficiency space (such as lighting) has already been captured through existing programs, so future programs will need to rely on deeper savings that require infrastructure development, marketing, culture change, and a not-yet developed network of energy efficiency market vendors that will take time and investment to cultivate.

d. Target Average Baseline Load Method

Staff Proposal: The Staff Proposal states that "the percentage target reduction is based on the average load of each of the prior three years." (p33) It provides an example of such a calculating, stating that "if the required annual energy use reduction for a utility is 2% in 2026, the applicable load to apply the percentage would be the average of annual usage for years 2023–2025. In this

[8] https://www.aceee.org/sites/default/files/publications/researchreports/u1601.pdf

way, the percentages are set ahead of time, and the average load is applied when the MWh and therm targets are calculated." (p33)

Discussion: The Staff Proposal on setting the energy savings baseline is unworkable because it presents program administrators a moving target on savings goals, even within a three-year plan. The derivation of the annual savings target for each utility in units of energy is suggested to be calculated as the product of the percentage savings target and the average load of each of the prior three years. In the Staff Proposal's example, this means that when the first cycle program filings occur in 2020 for years 2021-2023, none of the actual targets will be known by those developing the portfolios. That is because the 2021 program year will be based upon the average of 2018, 2019, and 2020, that last year of which will not yet be complete at the time of filing. Even worse, the 2023 year will be based on 2020, 2021, and 2022, none of which are complete. It is unfair to set moving targets and assess penalties and incentive based upon achieving those targets. In addition, program budgets are fixed based upon the associated Board Order, and to the extent load increases, utilities will have no means of increasing budgets to increase savings.

The Staff Proposal misinterprets the language in the Clean Energy Act to mean that the annual average load used to determine the annual MWh and annual therm goals must be done on a rolling basis. However, the language from the CEA, which states the reductions should be based upon "the prior three years within five years of implementation." The "prior three years" and "within five years" are both subject to the years of implementation, not the actual year savings are delivered. Therefore, the goal should be established based upon the average weather normalized load of the three years leading into the program filing, so that the targets can be known ahead of time and planned around.

Recommendation: Gabel Associates recommends that the Annual Average Load used to compute the denominator in the savings target calculation be set on the three years prior to a program filing. The targets for the first three-year filing, which is expected to be filed in 2020, should be based upon weather normalized load from 2017, 2018, and 2019. The targets for the second three-year filing, expected to be filed in 2024, should be based upon weather normalized load from 2021, 2022, and 2023. This will allow program administrators to plan for a specific goal, and not be subject to changes in targets for which they have no flexibility to change program designs or funding. The Clean Energy Act permits this interpretation, as it states that the reductions be based upon "the prior three years within five years of implementation." As such, the annual load for the first three-year program cycle for each utility is already known, and an estimate of the three-year average against which the percentage savings should be applied for electric utilities is provided in the chart below:[9]

[9] Sourced from Form EIA-861M Retail Sales

Year	ACE	JCP&L	PSE&G	RECO
2017	9,184,449	20,155,011	41,705,519	1,920,253
2018	9,747,043	21,046,775	42,772,310	1,931,755
2019	9,371,992	20,171,487	41,314,210	1,862,652
3-Year Average	**9,434,495**	**20,457,758**	**41,930,680**	**1,904,887**

Note that the chart above is not weather normalized. Utility filings will include weather normalized data for 2017, 2018, and 2019 which will differ slightly from the values provided above.

e. Net vs Gross Savings

Staff Proposal: The Staff Proposal recommends that "energy savings should be reported in both gross and net savings, with net savings utilized for all aspects of program review, including cost-effectiveness testing and compliance" (p53)

Discussion: Net savings are often a metric used to review energy efficiency program savings; however, the Clean Energy Act does not require for savings targets to be assessed on a net basis. In fact, the Clean Energy Act calls for the State to achieve savings on a gross basis, as explained in the following excerpts.

> *Take into account the public utility's energy efficiency measures and other non-utility energy efficiency measures including measures to support the development and implementation of building code changes, appliance efficiency standards, the Clean Energy Program, and other State-sponsored energy efficiency or peak demand reduction programs, and public utility energy efficiency programs that exist on the date of enactment*
> -N.J.S.A. 48:3-87.9(c).

> *A public utility may apply all energy savings attributable to programs available to its customers, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on the date of enactment, building codes, and other efficiency standards in effect, to achieve the targets established in this section*
> -N.J.S.A. 48:3-87.9(c).

Calculating net savings can also be problematic, as many jurisdictions consider free-ridership, but not spillover and other positive effects of energy efficiency programs. The net-to-gross ratio, i.e. the relationship between gross savings and net savings accounting for free-ridership and spillover was not released in the Potential Study, and there have been few (if any) studies in New Jersey conducted to determine a reasonable net-to-gross ratio for these programs. It is unreasonable to set savings targets based upon a net-to-gross ratio that has not been released to, or evaluated by, any set of stakeholders.

Notwithstanding the above, there must be robust EM&V on all program administration and savings. This should evaluate factors such as free-ridership, spillover, effectiveness of marketing,

evaluation of processes and procedures, and many other factors. All this information is invaluable to improve future program offerings.

Recommendation: Gabel Associates recommends that energy savings performance be measured on a verified gross basis, as provided for in the Clean Energy Act. Expected gross, verified gross, and net savings should be included in the EM&V evaluation as this information is vitally important to understand for program administration, delivery, and planning.

f. Net-to-Gross Ratio

Staff Proposal: The Staff Proposal states that "New Jersey will utilize a net-to-gross value of 0.84 to be applied to all programs, except for low-income, for which 1.0 should be used." (p53)

Discussion: The Staff Proposal provides no source or additional data for the arbitrary net-to-gross ratio of 0.84 required to be used to determine net savings.

Recommendation: Gabel Associates recommends the BPU allow utilities to provide estimated net-to-gross ratios in program plan filings for individual programs which is consistent with what is required in the Minimum Filing Requirements. Net-to-gross ratios may vary by program and jurisdiction. Gabel Associates also reiterates its recommendation that the measurement of progress to goals should be based on gross, not net savings. This is especially important in the early years of the programs because New Jersey programs have undergone very little evaluation, meaning no primary data exists in New Jersey to estimate net-to-gross factors.

g. Evaluated vs Verified Savings

Staff Proposal: Measure utility progress toward the annual energy savings goal based on "ex post evaluated net" savings. (p34)

Discussion: Use of ex post evaluated net savings is not a reasonable method to evaluate utility savings. Utilities will be developing and submitting programs using good-faith assumptions and inputs to attempt to build a program that will successfully help customers save energy and the State reach its mandated goals. The assumptions are based on the best available information at the time. And will be included in utility filings, reviewed by Board Staff, Rate Counsel, and other interveners, before ultimately being approved by the BPU as reasonable assumptions.

It is unreasonable to penalize administrators who meet participation targets, but the good-faith assumptions approved by the BPU are deemed incorrect. For example, according to the minimum filing requirements, filings are required to utilize the NJ protocols; however, if evaluation finds that some of the protocols are inaccurate, administrators should not be punished for using an assumption they had no hand in developing and were required to use.

A more reasonable methodology would be to evaluate targets based upon verified savings. Verified, or claimed, savings are defined as the post-installation savings calculated based upon verification of participation and initial savings estimates. Verified savings use the approved measure-level savings assumptions and the actual installation and participation figures to

determine savings from the energy efficiency programs. Verified savings differ from ex post evaluated savings because they do not change the good-faith assumptions approved by the BPU on measure-level savings assumptions. It is unreasonable to "move the goal posts" after a utility has already implemented a program.

The use of ex post evaluated savings for annual savings targets is also not aligned with the evaluation schedule provided in the Staff Proposal. The impact evaluations used to determine ex post evaluated savings are not scheduled to occur until year three, but utilities are subject to penalties and incentives in years one and two. It is unclear how ex post evaluated savings can be determined without conducting impact evaluations.

Recommendation: Gabel Associates recommends that achievement of targets be calculated based upon verified gross savings. Ex post evaluation results are important for many reasons including future program design, NJ Protocol updates, mid-course program improvements, and other matters. However, these results should be used prospectively to improve programs, not retroactively to adjust savings estimates relying on the NJ Protocols and best-known information during the planning period.

h. Evaluation Timeline, Process, and Framework

Staff Proposal: Staff Proposal outlines an administrative framework, timeline, and savings determination approach for evaluation activities (p46-49). The administrative framework includes several workgroups and evaluation contractors for utilities, DCE, and BPU, as well as specific activities for each participant of the workgroups. The evaluation timeline requires evaluations and program assessments to be completed at specific intervals. Finally, the savings determination approach requires updates to the New Jersey Protocols and notes that a comprehensive update will likely be necessary "ahead of the first year of the next generation of energy efficiency and peak demand reduction programs…" (p49).

Discussion: The Guiding Principles for EM&V outlined by Staff are a strong starting point and foundation for New Jersey to build evaluation efforts around. Independence is critical to ensuring results are reliable and free of conflict or bias and transparency is important to ensuring quality and credibility to the process. The guiding principles will lay a strong foundation for evaluation in New Jersey, which will greatly enhance savings estimates and program performance.

While the administrative structure may seem duplicative because of multiple evaluators, this approach can improve the process and quality of results. However, it will be important for the workgroup to establish bylaws early in the process to ensure all voices are heard and differences in opinion (of which there are many in evaluation) are carefully considered to determine the best path forward for New Jersey.

The Staff Proposal on evaluation timeline does not align with the rest of its proposal or best practices. For example, the Staff proposal states that "impact evaluations and prospective BCA should be conducted at the beginning of the third year" (p49). Impact evaluations measure the energy savings from a specific energy efficiency initiative against a counterfactual event. Impact evaluations can include engineering estimates for specific measures, whole building analysis,

randomized control trials, and other approaches. The savings estimates learned from impact evaluations often form the basis for technical resource manual updates and cost effectiveness evaluation (forward or backwards looking). If Staff is proposing to update the Protocols in time for use in the next three-year cycle planning efforts, it will be necessary to conduct impact evaluations on an annual basis, especially considering the lack of evaluation in New Jersey to date. By only doing an impact evaluation in year three, none of the program administrators would have information at a time when it would be useful (during the planning process, which would occur at the end of year two and beginning of year three).

The update process and schedule for the Protocols will need to be refined by the EM&V working group, as well as the frequency of various evaluations and other evaluation policy details. The EM&V workgroup should answer all of these questions jointly while drafting a New Jersey EM&V Framework document, similar to what has been done in many other states, including California. A Framework document developed by the workgroup and approved by the Board would outline specific rules and processes for evaluation in New Jersey. This approach would alleviate Staff from requiring specific evaluation details in the final version of the straw proposal and benefit from the input and guidance from several expert firms in this field.

Recommendation: The Board should not proscribe specific evaluation guidelines, schedules, and other evaluation policy issues in the straw proposal. These details should be developed by the EM&V workgroup while they undertake the drafting of the New Jersey Statewide Evaluation Framework.

i. Cost Caps

Staff Proposal: The Staff Proposal includes "final cost to achieve projections will be used to evaluate cost effectiveness of program portfolios and to evaluate budgets proposed in the filing process." (p28) "Utilities should file programs whose costs fall within the below-detailed sector-based costs to achieve ranges." (p85) The cost to achieve scenarios "were modeled based on nation-leading programs in Massachusetts and Rhode Island." (p85)

Discussion: It is unclear how these cost caps were developed, but energy efficiency costs vary by location and year. New Jersey in particular is in a very different position than Massachusetts and Rhode Island from a program administration and energy efficiency perspective. Massachusetts and Rhode Island have been running programs for decades, and have built up the infrastructure, relationships, and customer recognition that help programs run smoothly and more cost effectively. New Jersey is looking to build up the foundation of a robust energy efficiency marketplace, and that will take massive investment not just for the technical and physical infrastructure to be built up to manage such programs, but also to build the brand recognition necessary for customers to participate in programs. Therefore, all else being equal, energy efficiency in New Jersey will be more expensive than Massachusetts and Rhode Island until the programs reach a mature state such as in those jurisdictions.

Finally, the cost to achieve estimates from Massachusetts and Rhode Island are retrospective, and likely contain massive amounts of lighting savings and costs, generally considered the most cost-efficient and cheapest measure type to achieve savings. However, lighting potential will be

diminished or completely eliminated for many sectors in the future, and therefore the retrospective cost to achieve estimates should not be used for prospective evaluation.
The Clean Energy Act requires the BPU to approve energy efficiency programs that are cost-effective; therefore, the venue to review cost to achieve is not in the Staff Proposal, but in the filing process in the cost-benefit analysis.

Recommendation: Gabel Associates recommends elimination of all reference to the "cost to achieve" factors provided in the Staff Proposal. These "cost to achieve" estimates are not developed on New Jersey information, and do not account for the energy efficiency climate or environment in New Jersey. Staff should instead review the reasonableness of utility energy efficiency programs given the current information presented in the utility filings.

j. Cost-Effectiveness

Staff Proposal: The Staff Proposal states that "the State will commence a process to gather stakeholder input to discuss whether to pursue development of this test and all policy inputs in the spring of 2020." (p12) "During the first cycle of programs and after possible institution of the RVT or other primary test, the five CSPM tests will continue to be used for information-only reporting." (p51) The Staff Proposal also includes references which state that "The utility shall conduct a benefit-cost analysis of the programs and portfolio using the New Jersey Test." (p91)

Discussion: Given utilities will only have a few months to design entire portfolios, including substantial coordination with other entities for co-managed and core programs, there is simply not enough time to undertake the process necessary to develop a new cost effectiveness test for New Jersey. It would take months to discuss, develop, and finalize a new framework for a New Jersey cost effectiveness test. This process could be undertaking during the first or second year of the first program cycle. Other jurisdictions who have developed a test under RVT have taken 6-12 months to complete the process. Any new test could significantly alter energy efficiency potential for New Jersey because potential savings are highly dependent on cost effectiveness testing. Therefore, it is recommended that the development of the test be completed *prior* to the market potential study update.

The CEA also requires consideration of environmental and economic factors in cost effectiveness testing. These factors are generally only considered in a societal cost test, of which the Board is very familiar. In addition, the energy savings targets developed under market potential study, which the BPU is using to set savings targets for program administrators, also relied on the societal cost test. Therefore, the Board should rely on the societal cost as the primary test for the first three-year cycle.

Recommendation: Gabel Associates recommends the societal cost test be used as the primary test during the first program cycle. To do otherwise would be contrary to the requirements of the Clean Energy Act and the way the BPU evaluates other technologies, such as offshore wind. It is unreasonable to develop a New Jersey specific test using the Resource Value Framework prior to the submission of utility filings. This process can be undertaken to potentially be included in the second program cycle.

k. Penalty and Incentive Timing

Staff Proposal: The Staff Proposal states that for years 1, 2, and 3, "incentives and penalties will be based on performance in the annual energy savings and lifetime energy savings metrics only." (p78)

Discussion: As discussed elsewhere in these comments, there are a number of impediments to utilities achieving goals, and there are many issues such as ramp rate and lack of New Jersey primary data which make it difficult to accurately predict savings. Without having conducted any baseline analyses, a proper potential study, and with minimal experience running expansive energy efficiency programs, it would be inappropriate to levy penalties or incentives during the first program phase.

Recommendation: Gabel Associates recommends that incentives and penalties be eliminated for the first three-year cycle. Utilities should still be required to hit the targets of the Clean Energy Act within five years of program implementation. The penalty and incentive structure should be revisited during the triennial review process. To the extent the BPU implements penalties and incentives during the first three-year cycle, they should be assessed only after year three, not on an annual basis, and the buffer zone should be expanded, as to allow utilities to scale up to meet the goals of the Clean Energy Act.

l. Penalty and Incentive Symmetry

Staff Proposal: The Staff Proposal states that "Incentives and penalties will take the form of a return on equity (ROE) adjustment to energy efficiency program investment. A utility will earn a performance incentive in the form of a higher modified ROE if it exceeds (between 110%–150%) its established targets. A utility will receive a performance penalty in the form of a reduced modified ROE if it misses (between 50%–90%) its targets." (p39) In addition, a "buffer zone (between 90%-110%) of target achievement will be established within which a utility will neither be awarded an incentive nor assessed a penalty" (p39) and "If a utility fails to reach 50% of its targets, it will be deemed noncompliant and assessed a separate penalty that scales appropriately to the utility's size." (p39)

Discussion: The Staff Proposal contains a non-symmetric penalty and incentive structure. While incentives and penalties are awarded between 10% and 50% above and below the baseline, the value of those penalties are not balanced. The penalty can reduce the return on equity by up to 500 basis points, while the incentive can only increase the return on equity by 100 basis points. That means that on a relative basis, the penalty amount is five-times that of the incentive amount.

The first fault with this structure is that the incentive is not an incentive at all, it is just a reduction in the penalty. As stated elsewhere, there should be no ROE reduction for energy efficiency investments. By limiting the incentive to only the ROE determined in the rate case, there is no true incentive for over-performance. In addition, the severe penalty is over-wieldy and is not best practice.

While the neutral dead-band zone provides some protection, the BPU should recognize that the current regulatory framework makes under-achieving more likely than over-achieving. This is because utility spending is determined prior to administering programs, and unexpected circumstances, such as if savings estimates are adjusted mid-stream, if deemed savings exceed evaluated savings, if vendors cost more than expected, if customer preferences change, if weather is abnormal, or if there are other unforeseen costs, a utility will likely underachieve the goals with no ability to compensate for these real-time changes. Conversely, and for many of the same reasons, over-achieving goals is very difficult.

Recommendation: Gabel Associates recommends that if incentives and penalties are not awarded on a symmetrical basis, they should be skewed toward higher incentives and lower penalties, not the opposite as is contained in the Staff Proposal.

5. Programs and Filing Requirements

The Staff Proposal has several programs which appropriately should be shifted to utilities. Being less prescriptive with some of the aspects of program administration and filing requirements would also increase savings from the programs.

a. Codes and Standards Program

Staff Proposal: The Staff Proposal assigns "Energy Codes and Standards Initiatives" (p24) to the "Additional State-led Initiatives" administration category and "proposes to form an energy codes review panel" (p53) which "will seek to identify opportunities for greater energy efficiency via building energy code strategies and seek to quantify the energy savings that could result from updates to energy codes." (p53) "Subsequently, the Board should review and adopt as appropriate recommendations arising from the above-mentioned studies." (p53) The Staff Proposal contained no savings associated with codes and standards programs.

Discussion: Codes and standards programs typically produce savings by increasing compliance with existing codes and advocating for increased codes. These programs can also provide research on measures to advocate for in the future. This sector was largely ignored in the Staff Proposal, as they planned to implement a working group, but accounted for no savings from codes and standards.

For example, California's 2013-2015 Energy Efficiency Evaluation report shows that the codes and standards program provided 71% of gross electric savings (53% of net) and 48% of gross natural gas savings (37% of net) across this period.

Being that New Jersey has no history of implementing any codes and standards programs, it is reasonable to assume that there may be even greater potential for codes and standards related savings than in other states. DCE should engage utilities and other stakeholders to share insights from the marketplace and interactions with trade allies and build a shared understanding of where the State should go with codes. With coordination or input from utilities and other key stakeholders, DCE could avoid pursuing aggressive codes that the market may not be ready for.

Recommendation: Gabel Associates recommends potential savings associated with codes and standards be included in the NJCEP Annual Energy Savings Targets, and that NJCEP devote significant resources to expanding efforts to support codes and standards programs to maximize savings from this segment of the market.

b. Co-Managed Programs

Staff Proposal: The Staff Proposal states that "co-managed programs will be implemented using SBC funds." (p28) In addition, "QPIs are based only on the Utility Program Annual Energy Savings Targets" (p33) which includes "programs administered by the utility and programs that are co-managed" (p33).

Discussion: As discussed earlier in the context of Comfort Partners, the co-managed program concept is largely undefined and problematic from a management standpoint (i.e., "too many cooks in the kitchen"). Currently the Comfort Partners program, the assumed model for the co-managed approach, is funded through the SBC, budgets are established by NJCEP, and the utilities deliver to end-use customers. However, the funding levels are determined on a one-year basis and often inconsistent from year to year. Funding delivered through the SBC also has several challenges, including the fact that these funds are subject to reallocation during the State budget process for other government uses and contracts with vendors are required to flow through the NJ Treasury, which can be problematic.

The energy savings goals for the co-managed programs would also be the responsibility of the utilities under the current straw proposal. It would be unreasonable to hold utilities accountable for performance in a program in which they do not control funding levels or contracting processes. This will be even more of an issue during the second three-year cycle when utilities would be subject to penalties for poor program performance.

Recommendation: Gabel Associates recommends that co-managed programs be funded by utilities to avoid potential budget reallocation and reduce incentive payment delays. This is particularly important for low- and moderate-income programs. In addition, to the extent co-managed programs are included in the Utility Program Annual Energy Savings targets, the decision-making on proposal related to program design, marketing, and implementation should be held by utilities, with final approval from the Board.

c. Online Marketplace Program

Staff Proposal: The Staff Proposal requires that utilities "will adopt a single online platform for an energy efficiency products marketplace" (p71)

Discussion: The online marketplace is an important tool for utilities to easily reach customers through their preferred means of communication, which is quickly shifting to online interactions. Limiting utilities ability to explore this relationship in any way will diminish its effectiveness as a tool for promoting savings.

In addition, many utilities have already invested in online marketplaces, and requiring a single marketplace would result in ratepayers footing stranded costs for duplicative functionality.

Recommendation: Gabel Associates recommends the online marketplaces of various utilities be implemented in a manner of their choosing. To the extent utilities wish to explore common administration, that should be allowed, but utilities should also be allowed to implement their own system which provides efficiencies within their billing and managements systems. Utilities should be asked to have some common elements that will provide the state with a generally consistent marketplace. This could include branding and other elements. This could be achieved whether there is a single state-wide marketplace or not.

d. Administration of Retail Products, New Construction, and Combined Heat & Power

Staff Proposal: The Staff Proposal assigned administration of Retail Products, Residential and Commercial New Construction, and Combined Heat & Power – Fuel Cells Program to the "State-Administered Core Programs." (p67)

Discussion: According to the first straw proposal on program administration, "staff believes… utilities are best suited to deliver programs that are based on existing customer relationships and that rely on utility data and systems."[10] Utilities have direct relationships with residential customers engaged in the purchase of retail products, and the larger retailers who could serve as the touchpoint in a midstream program approach. In addition the Staff Proposal calls for utilities to be responsible for the majority of the demand related initiatives and given the growth in the number of connected products over the past few years, it is critical for the utilities to run the Products program to properly integrate those offerings. Utilities also have the direct relationships with larger customers who would be eligible for CHP projects and would be in a better position to use customer data to design a program and target outreach to customers who could participate in a CHP program. Utilities are also in a unique position to address the complex needs of the new construction program and could address statewide consistency through a coordinated effort to ensure continuity across service territories.

Recommendation: Gabel Associates recommends the administration of these programs be transferred to utilities. The BPU would still maintain direct oversight of all the programs, but utilities would be able to utilize their natural advantages to more fully administer these programs and better coordinate with emerging demand related initiatives. As such, the savings targets associated with these programs should be transferred from the NJCEP Annual Energy Savings Targets to the Utility Program Annual Energy Savings Targets.

e. Budget Reallocation

Staff Proposal: The Staff Proposal states that "Utilities will be permitted to make minor adjustments to program design with Staff approval" (p26) and "Staff will be required to approve or deny the proposed change within thirty days of submission." (p26) Specifically, "Utilities will be able to shift budgets up to 10% of the individual program budget between or among programs in the same sector with Staff notification." (p26) "For budget shifts ranging from 10%-20%

[10] *See* Energy Efficiency and Peak Demand Program Administration Straw Proposal. December 20, 2019. Page 12.

between or among programs within a sector Staff approval will be required." (p26) Any "budget shifts exceeding 20% will require Board approval." (p26) "Staff approval will be required for budget shifts up to 5% between sectors" (p27) and "budget shifts exceeding 10% between sectors will require Board approval." (p27) "Budgets for Low-Income programs and Small Business programs will not be eligible for shifting between programs or sectors without Board approval." (p27) "Utilities will be able to adjust energy efficiency and peak demand management measure incentives up to 20% of approved levels with Staff notification. Adjustments ranging from 20%-40% will require Staff approval. Any adjustments exceeding 40% of approved levels will require full Board approval." (p27)

Discussion: In the constantly changing landscape of energy efficiency, limiting the ability of program administrators to provide customers with their needs would be a mistake. While BPU should be made aware of all changes, requiring approval for changes will leave customers without incentives for the measures they desire. Programs in the state currently have this freedom and successfully run programs without issue.

Recommendation: Gabel Associates recommends that utilities be permitted to transfer budgets between programs without any limitation. All changes should require notification to the BPU and Board Staff; however, utilities should only be required to seek permission should they wish to exceed to overall program budget established in the Board Order.

f. Branding and Marketing

Staff Proposal: The Staff Proposal states that "The State will work closely with the utilities to ensure that mass marketing efforts are conducted in each territory and promote "New Jersey's Clean Energy Program."" (p28) In addition, "overall branding and awareness of energy efficiency programs established and guided by the BPU." (p28)

Discussion: The Clean Energy Program brand has existed for many years but is saddled with a history of budget cuts and incentive payment delays. In addition, the name Clean Energy Program evokes clean energy options such as solar and wind. The energy efficiency programs should be supported by a brand that suggests reducing energy consumption. In addition, the ultimate branding and awareness of the energy efficiency programs should be led by those entities actually on the ground interacting with customers.

Recommendation: Gabel Associates recommends that a new state-wide brand be established that is novel and centered around customers in New Jersey reducing consumption and saving energy. Marketing and advertising decisions should be established and guided by utilities, with participation by the BPU.

Summary of Recommendations

Application of the recommendations provided herein would dramatically change the design and schedule of the energy efficiency framework and programs of the State. Each of these recommendations would increase the ability of program administrators to achieve the ambitious

goals of the Clean Energy Act by more clearly defining goals and more fairly aligning targets. While we understand the BPU may not accept every recommendation contained within this document, we hope every issue discussed is given ample consideration as we believe they would provide a better and more just environment to increase savings and reduce emissions for the people of New Jersey.

Each of the recommendations provided throughout this document is listed again below for ease of access and reference.

- **First Three-Year Plan Schedule** - Gabel Associates recommends the Board allow additional time for utilities to file the first three-year plans. Utilities should be required to file three-year plans by October 31, 2020, with an expected Board Order by May 1, 2021. Programs would then commence on July 1, 2021. The additional time would allow some necessary time for utilities to plan programs to meet the aggressive energy savings goals outlined in the CEA. These proposed dates would not preclude the Board from reviewing or approving early filings. The additional time would also allow the necessary time for collaboration among parties to optimize core and co-managed program success. BPU should also provide all program data for any programs being transferred to utilities to facilitate an orderly and successful handover of programs.
- **Subsequent Timeline and Triennial Review** - A proposed alternate schedule is attached as Exhibit A. Gabel Associates recommends the BPU modify the program filing timeline to allow utilities the necessary runway to conduct program planning. The modifications necessary would require the EM&V working group to begin the market baseline studies in program year one, which will inform the market potential study update in the first quarter of program year two. The market potential study update, and the several other studies, could then be used by the Board to develop a straw proposal of potential triennial review changes, which would then undergo the stakeholder process comment period prior to a final Board Order by the end of the third quarter in program year two. This would allow utilities all the information necessary to conduct program planning over a seven-month planning period prior to filing by November 1, 2023. This process would also allow the necessary time needed to conduct each study properly with additional time for stakeholder input. An expanded outline of this schedule is attached as Exhibit A.
- **Comfort Partners as Co-Managed** - Gabel Associates recommends Comfort Partners be shifted to utility managed with NJCEP collaboration and oversight. If utilities are going to be responsible for the performance of the Comfort Partners program with penalties and incentives for their performance, they should maintain budget setting, vendor contracting, and program design responsibilities. All of these aspects would also be overseen by the BPU. The Board should also consider additional low- and moderate-income focused programs and minimum spending levels for the low- and moderate-income programs to assure that this segment is equitably served.
- **Weighting of Low- and Moderate-Income Metric** - Gabel Associates recommends the Staff Proposal remove any potential weighting factors or metrics for program years 4 and 5 and revisit these issues during the first triennial review period. The development of specific performance metrics and weighting structure is a complicated and time intensive process. The final metrics will likely be very different than those envisioned in the current Market Potential Study. However, if the BPU does decide to include performance metrics

and weighting structures in the final version of this Staff Proposal, Gabel Associates recommends that savings for low- and moderate-income energy users be prioritized, and that the BPU recognize that low- and moderate-income savings are more difficult to reach, are often more expensive, and therefore is at odds with the UCT requirement to reduce costs. This recommendation would likely require the Board to reduce the emphasis on the UCT net benefits and increase emphasis on first year and lifetime energy savings, to balance the priorities of the policy goals outlined in metrics.

- **Basis Point Reduction** - Gabel Associates recommends utility investments in energy efficiency receive a ROE equal to the ROE authorized in the previous rate case for each utility. The ROE should be determined in each base rate case proceeding, not in an energy efficiency rulemaking process, and the Board should holistically consider factors such as risk, investment type, and return for peer utilities when deciding the ROE level.
- **Amortization Period** - Gabel Associates recommends an amortization schedule for energy efficiency investments based on the weighted average lifetime of the portfolio. To the extent the BPU wishes to deviate from standard ratemaking practice and preselect an amortization period, the period should more closely match the useful life of recent energy efficiency filings. Therefore, the useful life should be set at no fewer than 10 years, as is consistent with the shortest amortization period filed in recent Energy Efficiency Filings before the BPU.
- **Lost Revenue Recovery** - Gabel Associates recommends that the Board find that a modified CIP or CIP-like mechanism is the preferred approach for lost revenue recovery. In addition, utilities should be allowed to propose any form of lost revenue recovery at this time, outside of a rate case, in order to facilitate the growth of energy efficiency in New Jersey. These mechanisms can be amended or updated during the next base rate proceeding.
- **Overall Savings Targets and the Clean Energy Act** - Gabel Associates recommends that the BPU allow utilities to propose reasonable achievable targets in their first three-year program filings. This will allow utilities to tailor specific savings targets for their service territories. Goals for years 4 and 5 should be revisited following the completion of the baseline and updated market potential studies.
- **NJCEP Annual Energy Savings Targets** – Gabel Associates recommends the NJCEP Annual Energy Savings Targets be increased to match the appropriate level of savings expected from the programs being retained by the State. That includes inclusion of the retail products program (should NJCEP administer that program, which we recommend be moved to utilities) and the codes and standards program. The following chart illustrates a more accurate estimate of the NJCEP Annual Energy Savings Target:

Year	Electric		Natural Gas	
	Staff Proposal	**Gabel Proposal**	Staff Proposal	**Gabel Proposal**
1	0.1770%	**0.4193%**	0.0652%	**0.1205%**
2	0.2600%	**0.6150%**	0.1304%	**0.2410%**
3	0.3430%	**0.8107%**	0.1955%	**0.3615%**
4	0.4250%	**1.0064%**	0.2477%	**0.4579%**
5	0.5080%	**1.2021%**	0.2868%	**0.5302%**

The Gabel Proposal in the above chart is predicated on inclusion of both the retail products and codes and standards programs. The retail products program was adjusted downward to account for the fact that potential from lighting savings will be greatly diminished in the future. The codes and standards program was assumed to provide 30% of portfolio savings, much lower than the actual achieved savings in other jurisdictions. To the extent New Jersey is able to overperform the 30% estimate, which is extremely conservative, then the NJCEP Annual Energy Savings Targets should be increased upward from this Gabel Proposal.

- **Ramp Rates** - Gabel Associates recommends that the annual ramp rates be proposed by each utility in its program filing. This will allow utilities to tailor the expected program growth to the specific characteristics of their service territory. By allowing utilities to propose specific ramp rates, it also accounts for the fact that much of the easier to achieve savings from the 'low hanging fruit' in the efficiency space (such as lighting) has already been captured through existing programs, so future programs will need to rely on deeper savings that require infrastructure development, marketing, culture change, and a not-yet developed network of energy efficiency market vendors that will take time and investment to cultivate.
- **Target Average Baseline Load Method** – Gabel Associates recommends that the Annual Average Load used to compute the denominator in the savings target calculation be set on the three years prior to a program filing. The targets for the first three-year filing, which is expected to be filed in 2020, should be based upon weather normalized load from 2017, 2018, and 2019. The targets for the second three-year filing, expected to be filed in 2024, should be based upon weather normalized load from 2021, 2022, and 2023. This will allow program administrators to plan for a specific goal, and not be subject to changes in targets for which they have no flexibility to change program designs or funding. The Clean Energy Act permits this interpretation, as it states that the reductions be based upon "the prior three years within five years of implementation." As such, the annual load for the first three-year program cycle for each utility is already known, and an estimate of the three-year average against which the percentage savings should be applied for electric utilities is provided in the chart below:

Year	ACE	JCP&L	PSE&G	RECO
2017	9,184,449	20,155,011	41,705,519	1,920,253
2018	9,747,043	21,046,775	42,772,310	1,931,755
2019	9,371,992	20,171,487	41,314,210	1,862,652
3-Year Average	**9,434,495**	**20,457,758**	**41,930,680**	**1,904,887**

Note that the chart above is not weather normalized. Utility filings will include weather normalized data for 2017, 2018, and 2019 which will differ slightly from the values provided above.

- **Net vs Gross Savings** - Gabel Associates recommends that energy savings performance be measured on a verified gross basis, as provided for in the Clean Energy Act. Expected gross, verified gross, and net savings should be included in the EM&V evaluation as this information is vitally important to understand for program administration, delivery, and

planning.

- **Net-to-Gross Ratio** - Gabel Associates recommends the BPU allow utilities to provide estimated net-to-gross ratios in program plan filings for individual programs which is consistent with what is required in the Minimum Filing Requirements. Net-to-gross ratios may vary by program and jurisdiction. Gabel Associates also reiterates its recommendation that the measurement of progress to goals should be based on gross, not net savings. This is especially important in the early years of the programs because New Jersey programs have undergone very little evaluation, meaning no primary data exists in New Jersey to estimate net-to-gross factors.
- **Evaluated vs Verified Savings** - Gabel Associates recommends that achievement of targets be calculated based upon verified gross savings. Ex post evaluation results are important for many reasons including future program design, NJ Protocol updates, mid-course program improvements, and other matters. However, these results should be used prospectively to improve programs, not retroactively to adjust savings estimates relying on the NJ Protocols and best-known information during the planning period.
- **Evaluation Timeline, Process, and Framework** -The Board should not proscribe specific evaluation guidelines, schedules, and other evaluation policy issues in the straw proposal. These details should be developed by the EM&V workgroup while they undertake the drafting of the New Jersey Statewide Evaluation Framework.
- **Cost Caps** - Gabel Associates recommends elimination of all reference to the "cost to achieve" factors provided in the Staff Proposal. These "cost to achieve" estimates are not developed on New Jersey information, and do not account for the energy efficiency climate or environment in New Jersey. Staff should instead review the reasonableness of utility energy efficiency programs given the current information presented in the utility filings.
- **Cost-Effectiveness** - Gabel Associates recommends the societal cost test be used as the primary test during the first program cycle. To do otherwise would be contrary to the requirements of the Clean Energy Act and the way the BPU evaluates other technologies, such as offshore wind. It is unreasonable to develop a New Jersey specific test using the Resource Value Framework prior to the submission of utility filings. This process can be undertaken to potentially be included in the second program cycle.
- **Penalty and Incentive** - Gabel Associates recommends that incentives and penalties be eliminated for the first three-year cycle. Utilities should still be required to hit the targets of the Clean Energy Act within five years of program implementation. The penalty and incentive structure should be revisited during the triennial review process. To the extent the BPU implements penalties and incentives during the first three-year cycle, they should be assessed only after year three, not on an annual basis, and the buffer zone should be expanded, as to allow utilities to scale up to meet the goals of the Clean Energy Act.
- **Codes and Standards Program** - Gabel Associates recommends potential savings associated with codes and standards be included in the NJCEP Annual Energy Savings Targets, and that NJCEP devote significant resources to expanding efforts to support codes and standards programs to maximize savings from this segment of the market.
- **Co-Managed Programs** - Gabel Associates recommends that co-managed programs be funded by utilities to avoid potential budget reallocation and reduce incentive payment delays. This is particularly important for low- and moderate-income programs. In addition, to the extent co-managed programs are included in the Utility Program Annual Energy Savings targets, the decision-making on proposal related to program design, marketing,

and implementation should be held by utilities, with final approval from the Board.

- **Online Marketplace Program** - Gabel Associates recommends the online marketplaces of various utilities be implemented in a manner of their choosing. To the extent utilities wish to explore common administration, that should be allowed, but utilities should also be allowed to implement their own system which provides efficiencies within their billing and managements systems. Utilities should be asked to have some common elements that will provide the state with a generally consistent marketplace. This could include branding and other elements. This could be achieved whether there is a single state-wide marketplace or not.
- **Administration of Retail Products, New Construction, and Combined Heat & Power** - Gabel Associates recommends the administration of these programs be transferred to utilities. The BPU would still maintain direct oversight of all the programs, but utilities would be able to utilize their natural advantages to more fully administer these programs and better coordinate with emerging demand related initiatives. As such, the savings targets associated with these programs should be transferred from the NJCEP Annual Energy Savings Targets to the Utility Program Annual Energy Savings Targets.
- **Budget Reallocation** - Gabel Associates recommends that utilities be permitted to transfer budgets between programs without any limitation. All changes should require notification to the BPU and Board Staff; however, utilities should only be required to seek permission should they wish to exceed to overall program budget established in the Board Order.
- **Branding and Marketing** - Gabel Associates recommends that a new state-wide brand be established that is novel and centered around customers in New Jersey reducing consumption and saving energy. Marketing and advertising decisions should be established and guided by utilities, with participation by the BPU.

Conclusion

Gabel Associates appreciates the opportunity to provide these comments in response to the Staff Proposal to the BPU. The Staff Proposal provides a foundation from which a strong and innovative energy efficiency environment can be nurtured in New Jersey; however, in order to achieve the monumental goals set forth in the Clean Energy Act, the recommendations herein should be implemented to better align state policy with energy efficiency best practices.

We are happy to provide any supplementary information or answer any questions you may have regarding our comments. We look forward to continuing the open stakeholder process.

Sincerely,

Isaac Gabel-Frank
Vice President
Gabel Associates, Inc

Appendix A – Proposal Alternate Schedule

Date	Action	Entity	Notes
7/1/2020	EM&V workgroup is formed	EM&V Workgroup	
9/30/2020	EM&V workgroup files NJ EM&V Framework	EM&V Workgroup	
10/31/2020	PA's file 3-yr plans (PY1-PY3)	Utilities, DCE	
12/31/2020	Board approves NJ EM&V Framework	Board of Public Utilities	
1/1/2021	Working groups begin studies to inform next three-year cycle	workgroups	Studies include baseline studies, protocols update, market potential study updates, and metrics and targets
4/1/2021	Board issues Order on 3-yr plans (PY1-PY3)	Board of Public Utilities	
7/1/2021	PY1 begins	all	EM&V vendor should be under contract at this point
7/1/2021	Baseline studies begin	EM&V Workgroup	Baseline studies for all sectors, will be needed to market potential study updates
6/30/2022	PY1 ends	all	
6/30/2022	Baseline studies completed	EM&V Workgroup	Studies to be submitted to Board
7/1/2022	PY2 begins	all	
7/1/2022	Market Potential Study Update begins	EM&V Workgroup	Update to market potential study needed for triennial review begins.
8/15/2022	PA's file PY1 initial reports	Utilities, DCE	
10/1/2022	Market Potential Study completed	EM&V Workgroup	Market potential study completed, sent to Board to triennial review process
10/31/2022	PA's file PY1 final evaluation reports	Utilities, DCE	
12/31/2022	Board issues straw proposal on triennial review changes	Board of Public Utilities	
1/31/2023	Comments due on straw proposal for triennial review	all	
3/31/2023	Board Issues Order on straw proposal informing next three-year cycle	Board of Public Utilities	
4/1/2023	PA's begin next cycle planning process	Utilities, DCE	All triennial review issues need to be resolved prior to this date
6/30/2023	PY2 ends	all	
7/1/2023	PY3 begins	all	
8/15/2023	PA's file PY2 initial reports	Utilities, DCE	
10/31/2023	PA's file PY2 final evaluation reports	Utilities, DCE	
10/31/2023	PA's file 3-yr plans (PY4-PY6)	Utilities, DCE	In addition to plans, utilities would file cost recovery rider in conjunction with plans forecasting lost revenues and performance incentives
4/1/2024	Board issues Order on 3-yr plans (PY4-PY6)	Board of Public Utilities	

*This schedule does not preclude the Board from reviewing or approving early filings

From: Gerald O"Donnell
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition – Full Straw Proposal; Comments
Date: Monday, April 13, 2020 10:04:59 AM
Attachments: image.png

April 10, 2020

New Jersey Board of Public Utilities
Attn: Aida Camacho-Welch, BPU, Secretary
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350

Dear Ms. Camacho-Welch:

I am a Service Disabled Veteran Owned Business small business owner. As a New Jersey resident, small business owner, and entrepreneur, I applaud the Board of Public Utilities (BPU) and Murphy Administration for the commitment to combating global climate change, while moving New Jersey's green economy forward.

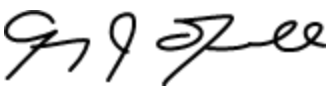
The State's Energy Master Plan presents an exciting road map to innovation and economic growth, particularly in energy efficiency where job creation leads in the energy sector. Unfortunately, the Straw Proposal appears to be missing a few elements to ensure energy efficiency will create these much-needed jobs and save customers money.

I am concerned that the Straw Proposal for New Jersey's energy efficiency transition plan does not include a long enough time period to finance these investments in energy efficiency. The financing timeline should be lengthened to 15 years. Otherwise, small businesses like mine could end up enduring a huge financial hit, which we simply cannot afford, especially now.

I also encourage the BPU to include full decoupling in the Straw Proposal. This would allow utilities to invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas, which has been an unfortunate trend in the past. Full decoupling would also encourage utilities to help New Jersey business owners reduce energy usage and costs, creating savings that could be invested in growing their workforce and capacity.

Energy efficiency has the potential to create jobs and save money. However, New Jersey small business owners need a consumer and business-friendly plan to ensure its success, without harming small business.

Thank you,



Gerald J. O'Donnell
GraySabre LLC
717.983.8249

HARRIETT'S ENERGY SOLUTIONS

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

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April 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Submitted via email: EnergyEfficiency@bpu.nj.gov

Re: Comments on Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Reduction Program.

Health Care Without Harm is pleased to submit these comments in response to the New Jersey Board of Public Utilities ("BPU" or "Board") Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs.

Health Care Without Harm supports the health care sector in reducing its carbon footprint, building climate-smart and resilient hospitals and communities, and mobilizing health care's ethical, economic, and political influence to advance the transition to a low-carbon future that supports healthy people living on a healthy planet.

The health care sector's greenhouse gas emissions make up 9.8 percent of the U.S. total. If it were its own country, health care would rank 13th in the world for greenhouse gas emissions, more than the United Kingdom.

Representing 18 percent of the U.S. GDP, the health care sector can have an outsized impact on the economy by using its purchasing power to drive the transition to clean energy and a low-carbon supply chain. Hospitals are often one of the largest local employers, making them valued anchor institutions and essential partners for advancing mitigation and climate resilience strategies in the communities they serve.

Health Care Without Harm envisions health care as a climate-smart, innovative sector that protects public health from climate change and accelerates the transition to a low-carbon economy while improving community resilience, health equity, and access to care.

Benefits of energy efficiency for hospitals

Energy efficiency is an essential first step in a strategy to reduce health care costs, move towards clean, renewable energy, and increase resilience. Hospitals consume large amounts of energy because of how they are run, more stringent code requirements, and the many people that use them. Thousands of employees, patients, and visitors occupy the buildings daily; and sophisticated heating, ventilation, and air conditioning (HVAC) systems control the temperatures and air flow. Hospitals operate 24/7 and are highly energy intensive, using 2.5 times more energy per square foot than an office building. Many energy intensive activities occur in these

buildings: operating rooms, laundry, medical and lab equipment use, sterilization, computer and server use, food service, and refrigeration.[1]

Hospital energy efficiency can deliver significant savings that can be reinvested into patient care. The U.S. health care sector spends over $9.5 billion on energy each year.[2] Every $1 a nonprofit health care organization saves on energy is equivalent to generating $20 in revenue for hospitals.[3] The Commonwealth Fund estimates that reducing waste and cutting energy usage in U.S. health care facilities can save an estimated $15 billion over ten years.

Efficiency also delivers significant benefits for the climate and for resilience. The cleanest form of energy is energy not used. Investments in energy efficiency reduce electricity demand and allow the early decommissioning of coal and fossil fuel plants. Energy-efficient operations also support hospital resilience, as greater efficiencies help health care facilities provide services for longer on backup power when the grid is down.

Hospitals are a high energy-usage sector which provide critical care for all members of society, are a significant source of employment in the state of New Jersey, and face unique challenges requiring more than traditional energy efficiency rebate program strategies. Market barriers include reduced funding, treating the uninsured, replacing aging equipment, rising energy costs, and a general lack of capital for energy improvements.

The current COVID-19 response is placing an added burden on health care facilities. Hospitals across the state are currently operating under extreme stress as all available hospital resources have been redirected to the emergency response. The direct cost of caring for infected patients and managing community spread, along with budget shortfalls resulting from the cancellation of elective procedures and other health care visits, has put a significant financial strain on hospitals and healthcare systems.

Hospital energy efficiency investments offer a significant opportunity to not only accelerate the state's climate and clean energy goals, but to ensure New Jersey hospitals remain financially viable and available to serve their communities.

Value of Utility Administered Hospital Efficiency Programs

Started in 2009, Public Service Electric and Gas Company's (PSE&G's) highly successful Hospital Efficiency Program is a $129 million multi-year initiative that is funding the installation of energy efficiency measures for a critical market segment, hospitals and healthcare facilities, in the utility's New Jersey service territory. The program is one of only a few programs in the U.S. that specifically targets hospitals. PSE&G provides upfront funding for the total cost of the

[1] https://www.eia.gov/consumption/commercial/reports/2007/large-hospital.php
[2] https://www.eia.gov/consumption/commercial/data/2012/c&e/cfm/c13.php
[3] Assuming a 5% margin

ECMs, which eliminates the financial burden for hospitals that often do not have the capital to invest in critical energy efficiency improvements. The program also provides an incentive toward the total cost of the project, and on-bill repayment for the hospital's share of the program costs which is often offset by the savings realized. The elimination of the need for out-of-pocket capital, coupled with the on-bill repayment component for the hospital facility, is vital to the success of PSE&G's program.

The energy efficiency work at 36 hospitals provides an average annual energy cost savings of more than $400,000 per hospital. The program has also saved enough kilowatt-hours of electricity to power more than 10,000 homes for a year and enough natural gas to supply more than 3,000 homes for a year. The initiative has garnered interest from almost every hospital in PSE&G's service territory and currently has a waiting list of facilities that want to participate in the program.

Given the success of the PSE&G program, New Jersey Natural Gas started a nearly identical program in January of last year and already has projects underway at eight hospitals.

Recommendations

In order to best leverage the energy efficiency opportunities available at all New Jersey hospitals, Health Care Without Harm recommends the following:

1. Through reductions in air pollution, energy efficiency delivers significant benefits to health, especially the health of vulnerable populations. Energy efficiency also supports hospital resilience as the more efficient a health care facility is, the longer they are able to operate on backup power. Human health should be the focus of any energy efficiency or climate goals. For that reason, we recommend including "improving public health with a focus on reducing air pollution in frontline communities and building an energy resilient health care infrastructure" as one of the "primary proposed objectives" on pages 8-9.
2. We appreciate the creation of "Additional Advisory and Working Groups" and recommend that a representative from hospitals is included in any formal stakeholder process to ensure programming best suits their efficiency needs and goals. A health care working group could be created, or health care could be represented on another working group for large energy users. It is important to recognize that hospitals have unique energy needs that require industry-specific experience, knowledge, and expertise. Similarly, The Equity in Energy Efficiency Working Group should consider how energy efficiency can support hospitals that serve low-income communities. Safety-net hospitals often have access to fewer resources and thus have greater need for capital to invest in energy efficiency.
3. We appreciate that the Straw Proposal recognizes the opportunities presented by innovation in program design, while balancing the value of innovation with the need for consistency in offerings throughout the state. We recommend that PSE&G's highly successful Hospital Efficiency Program be a model for all utilities and that the state

ensure this programming is made available to all hospital utility customers regardless of service territory.

4. As health care is increasingly provided in outpatient facilities, including energy-intensive services such as surgeries or MRI's, we recommend the BPU support the expansion of Hospital Efficiency Programs to include all ambulatory care sites in the state.
5. Given the high value hospital efficiency programs have in reducing both energy use and operating costs at hospitals, we recommend that hospital efficiency programs be specifically included as one of the "Utility-Administered Core Programs."
6. Funding for the PSE&G investment dollars for energy efficiency improvements at hospitals has exceeded demand year after year. For that reason, we recommend utilities be given sufficient budgetary flexibility to meet their energy efficiency targets by removing artificial cost constraints.
7. Create funding for utilities to provide technical expertise and training to hospital facility staff, like Building Operator Certification training, so that efficiency investments are operated and maintained effectively.
8. We support continued administration of the Combined Heat and Power (CHP) and Fuel Cell program by New Jersey's Clean Energy Program. CHP is a valuable energy resource for hospitals because it can provide all of a hospital's energy services efficiently and indefinitely during grid outages as long as fuel is available. Besides providing energy resilience, CHP can provide the same energy services using approximately one-third less fuel than what would be required by a conventional energy system. CHP is especially cost-effective for hospitals because they operate continuously, have high energy costs, and use both electricity and thermal energy. By burning less fuel than used by conventional energy services, CHP systems produce fewer greenhouse gas emissions like carbon dioxide (CO2), and fewer nitrogen oxides (NOx) and sulfur dioxide (SO2) emissions.[4] When the grid goes down an Asynchronous Cogeneration system can enable hospitals to continue to provide all services by switching to "island mode" without interruptions in service thus providing power to a facility or group of facilities (with a microgrid) to keep it/them operational during a utility outage. We recommend that NJCEP prioritize and selectively incentivize CHP projects that utilize renewable energy sources with storage and invest in research for thermal renewable innovation.

Thank you for the opportunity to participate in the Straw Proposal process. We believe our recommendations prioritize health and put New Jersey on the path to meet and exceed its energy efficiency, clean energy, and environmental justice goals.

Sincerely,

Jessica Wolff
Program Director
Climate and Health

[4] https://www.epa.gov/chp/chp-hospitals-superior-energy-superior-patient-care

Health Care Without Harm
jwolff@hcwh.org

Sarah Spengeman
Associate Director
Climate and Health
Health Care Without Harm
sspengeman@hcwh.org

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
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2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

a) Home Performance with ENERGY STAR.

b) WARMAdvantage.

c) COOLAdvantage.

d) Pay-for-Performance.

e) Direct Install.

f) SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

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3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

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We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Ed Hutchinson

Edward P. Hutchinson, President

HUTCHINSON™

Expertly better.

April 10, 2020

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Sincerely,

Tom Hutchinson Sr.
Principal

Energy Efficiency Stakeholder Meeting - Comments

TO: New Jersey Board of Public Utilities

FROM: Peter Rose, Managing Director, Isles Inc.

Isles Inc. is a 40 yr. old community-based non-profit organization located in Trenton NJ, but with a statewide view. Among many other services, Isles provides workforce training in energy efficiency and environmental health, residential energy efficiency retrofits and lead remediation/abatement.

Our main concern is how low and moderate income communities and individuals are treated under this proposal and while the proposal does address some of our concerns, we believe that greater focus needs to be placed on effectively serving the low income market and not just talking about doing so.

With regards to the "Energy Efficiency Straw Proposal", we would like to underline several key points:

- Properly done, energy efficiency retrofits provide multiple community benefits
- Low-income retrofits offers the highest returns on costs
- Barriers need to addressed for the program to work
- Potential to the State of NJ if successful

Community Benefits

A 2016 study by the American Council for an Energy Efficient Economy (ACEEE) and Energy Efficiency for All (EEFA) found that low-income, black, and Hispanic communities spend a much higher share of their income on energy. Median energy burdens for low-income households are more than **three times higher than among the rest of the population.**

Utility bills are the primary reason why people resort to payday loans, foreclosures and play an outsized role in the perpetuation of poverty. But the impacts of soaring energy bills go beyond finances. Living in under-heated homes puts occupants at a higher risk of respiratory problems, heart disease, arthritis, and rheumatism, according to ACEEE and EEFA.

The 2016 study found, not surprisingly, is that low-end housing is significantly less energy-efficient than other housing stock. People with less money aren't just paying a greater proportion of their income for energy — they're paying more per square foot.

Return on Investment

There is a great amount of potential for energy savings in these older buildings. ACEEE and EEFA found that 97 percent of the excess energy burdens for renting households **could be eliminated by bringing their homes up to median efficiency standards**. And a 2015 study by the U.S. Department of Energy found that the value of energy upgrades is 2.2 times their cost. This figure is even higher for the most inefficient homes.

Energy efficiency retrofits carried out in 16 cities across 8 Southeast US states from 2010-2013 created a 387% return on investment (ROI), according to a recent report from the Southeast Energy Efficiency Alliance (SEEA).

The SEEA energy efficiency retrofit effort spurred $3.87 million in economic input and 17.28 new jobs for every $1 million invested, an intense spurt of green economic growth in new spending, reduced energy costs, and associated spending created by newfound money through worker income or utility bill savings.

Retrofit type	Rate of Return
Light retrofit (10% energy saving)	18.5%
Medium retrofit (29% energy savings)	5.8%
Deep retrofit (79% energy savings)	4.0%

Currently, the benefit and the burdens of energy usage are not equally distributed. And while utility monopolies are pushing concerns about minor revenue losses and return on shareholder investments, the state *should be paying more attention to the vastly greater revenue gains to the state if low income households finally receive energy efficiency upgrades*. Those gains result from lower health care costs, more workforce participation, improved school performance, and an increased tax base.

Impediments to LI Participation/Lowering Barriers

Low-income Energy Efficiency (LIEE) programs are underperforming for many reasons and for many years, if not decades, in New Jersey and elsewhere. We do not see any significant changes to *improve* LIEE programming and delivery through this proposal, but with some thoughtful consideration, minor shifts in LIEE programs would make a significant difference in program delivery, which in turn provides energy savings, health benefits and employment.

The bi-furcated state systems for LIEE delivery suffer from program designs that present multiple impediments to successful delivery of energy efficiency to low/mod households. Barriers exist in program intake requirements, marketing, delivery and workforce capacity.

To address these issues, we suggest:

1. Starting with where LI customer *are* (culturally, economically and socially) not where we want them to be. To do that the state must get real feedback from contractors, customers and other stakeholders to understand the dynamics of delivering these services effectively to LI customers.
2. Have a unified and comprehensive communications plan to reach LI customer with program info and reason for participation.
3. Unify the disparate EE systems for low-income (DOE, LIHEAP, Clean Energy). Harmonize regulations, intake, etc. This includes making application process and documentation requirements less burdensome. Reduce documentation hurdle (the largest one) by making the program universal or nearly universal by using census tract for qualification, not household income. If you insist on income qualification, raise the qualification to at least 80% of HUD median, if not 100%.
4. Combine energy efficiency, lead safety, healthy homes and solar (both community and rooftop). Allow for flexibility in measures based on need in unit, not just focus on EE, which results in high number of deferrals for structural issues. Allow agencies or companies providing retrofits to more easily braid together lead and weatherization funds from multiple programs.

5. Allow for or create fund for pre-weatherization work, such as roof repairs (the biggest expense and barrier to weatherization) and other structural issues to greatly reduce "deferred" units.
6. Train a new workforce of BPI certified installers, technicians and auditors to provide adequate staffing to contractors willing to provide work in low income communities.
7. Require weatherization when households get heating assistance with a focus on High Use Customers.
8. Utilize variety of delivery methods. Consider giving *customers* more choice and control. Incentivize specific set of contractors to work in LI neighborhoods and have goals for units.

Potential Benefits

Done thoughtfully and with a focus on the goal of energy reduction, delivering low-income weatherization to a large number of households previously ignored by EE programs provides an opportunity to energize financial and health benefits to residents, new jobs for unemployed or underemployed workers in the energy efficiency field, and new economic activity generally. Isles and other vocational training organizations are ready to begin training hundreds of new workers in nationally certificated, high demand entry level and advanced energy efficiency jobs, once those positions are needed.

Jersey Central Power & Light
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April 13, 2020

VIA ELECTRONIC MAIL ONLY

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625
EnergyEfficiency@bpu.nj.gov

Re: JCP&L Comments on Energy Efficiency Straw Proposal

Dear Secretary Camacho-Welch:

Jersey Central Power & Light Company ("JCP&L" or the "Company") appreciates this opportunity to provide its comments on the Straw Proposal for New Jersey's Energy Efficiency [("EE")] and Peak Demand Reduction [("PDR")] Programs, issued March 20, 2020 (the "Proposal"). In addition to these comments, the Company also supports the comments filed by the New Jersey Utilities Association ("NJUA"), of which JCP&L is a member. In the instant comments, JCP&L identifies several areas within the Proposal that warrant clarification and further discussion. The Company also offers several alternative proposals for consideration, which it believes will assist New Jersey with a smooth and successful transition to utility-run EE and PDR programs. The Company's comments are organized to be consistent with the Proposal's Table of Contents and primarily address the following five main topics: (1) Program Administration; (2) Application of Utility Targets; (3) Cost Recovery and Performance Incentives; (4) Evaluation, Measurement and Verification ("EM&V"); and (5) Filing and Reporting.

Executive Summary

The Proposal takes numerous steps that the Company believes will be beneficial for New Jersey's EE future, including encouraging flexibility in program design and implementation. However, JCP&L continues to have serious concerns regarding the following key components of the Proposal.

1. **Cost Recovery and Performance Incentives/Penalties**

   - The Board should reject imposing a 100 basis point reduction to the return on equity ("ROE") component of the utilities' capital structure applied to deferred EE expenditures. Imposing such a requirement penalizes utilities for supporting the EE investment goals in the Clean Energy Act ("CEA") and serves as an inherent disincentive for utilities to make EE program investments. EE investments continue to have risks which are commensurate with investments in infrastructure

and, indeed, face additional risks because of the need to achieve significant performance goals mandated by statute. The proposed ROE "penalty" is seemingly based on the flawed assumption that capital available for investment is unlimited and that there is no competition for a limited pool of capital. That assumption does not reflect the reality of running a business with numerous, significant, and critical capital investment needs.

- The Lost Revenue Adjustment Mechanism ("LRAM") fails to recognize the full volumetric impacts experienced by a utility from EE programs. By excluding lost revenue resulting from sales reductions achieved by State-Administered programs and counting only an arbitrary fraction of the clear-cut gross efficiency savings, the proposed LRAM does not adequately counter the revenue disincentives inherent in promoting energy efficiency programs.

- Consistent with the CEA, utilities should be able to submit their own cost recovery mechanism as part of their BPU filed EE plans and should be permitted to receive contemporaneous recovery of all EE and PDR program costs. The CEA provides that "[e]ach electric public utility and gas public utility shall file annually with the board a petition to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency and peak demand reduction programs required pursuant to this section, including but not limited to recovery of and on capital investment . . . " (emphasis added). This statutory language permits utilities to recover their EE and PDR program costs on a "full and timely" basis by expensing them and recovering them contemporaneously. Notwithstanding this language, a one-size fits all approach should not necessarily be applied here, as utilities will be filing individual plans that may have different cost structures, program designs, and, ultimately, distinct measure lives or customer payback periods.

- Penalties should be discretionary—not mandatory. Many factors impacting performance are beyond the utilities' control. The load impact of the current pandemic illustrates the need for this flexibility. As structured, the Proposal envisions an aggressive ramp-up of the efficiency savings targets and requires extensive coordination and collaboration among multiple parties, potentially impacting the utilities' ability to reach said targets. Furthermore, the ongoing disruptions currently being experienced by EE service providers, in customers' lives, and to the general economy, as with other major events, can significantly impact program implementation and performance.

2. Utility Targets

- Compliance with the CEA should be based on gross (as opposed to net) savings. The aggressiveness of the proposed targets (2.15% net savings in year five) is further exacerbated by the Proposal requiring the use of net savings, in contravention to the CEA's language and intent. This results in an effective target

of over 2.5% gross savings, which is a significant increase over the already aggressive targets. When setting the savings targets and QPIs, the Board should take into account that New Jersey is already proposing to impose higher targets compared to other states, the numerous concerns raised regarding the Market Potential Study ("MPS") upon which the targets are based, and the compounding impact of utilizing net-to-gross savings calculations. To ensure the Board can lead New Jersey in reaching the CEA's EE savings goals, the savings targets and QPIs must be measured on a gross basis.

- The allocation of targets between the utilities' programs and the New Jersey Clean Energy Program ("NJCEP") programs is inappropriate and does not represent the underlying potential of those respective programs. Notwithstanding the need to revisit the MPS, as many stakeholders have argued, the NJCEP targets should be based on the achievable potential determined by the MPS for the programs the NJCEP will administer. The Proposal's targets for the NJCEP-administered programs are significantly less than what was identified in the MPS, inappropriately causing higher and unsupported targets for the utilities.

- Savings from codes and standards should be quantified and included in the NJCEP targets. While the targets in the Proposal are as set forth in the MPS, the Proposal did not quantify any savings from codes and standards, contrary to the CEA. Not quantifying and including this in the NJCEP targets results in the utilities having overstated and unsupported savings targets compared to the actual potential in the State.

3. Additional Modifications Needed

- Retail Products/Retail Marketplace and Appliance Recycling should be Utility-Administered and not State-Administered or Co-Managed programs. This avoids fracturing or degrading the experience of residential customers that would result from requiring them to engage through different program administration structures for consumer products. In addition, the transition of these programs to the utilities ensures consistency for residential customers across these rebate programs while eliminating multiple touch points for the customer, improving customer service and avoiding customer confusion. Making these utility-managed programs allows the utilities to better leverage, coordinate and promote these offerings with their other program offerings in order to optimize both program performance and create administrative efficiencies to reduce costs.

- Additional flexibility is needed to permit utilities to shift budgets between programs and sectors and adjust incentives to leverage successful programs. These changes are needed to allow the utilities to drive market activity as needed to maximize program performance and quickly and efficiently react to both market conditions and program performance.

Program Administration

- Working Groups

In the Proposal, at pages 16-18, Staff proposes that additional advisory groups and technical groups be developed in order to provide guidance and assistance in the implementation of the EE and PDR programs. In general, JCP&L supports the development of additional working groups to best collaborate on the various topics identified in the Proposal and believes that the additional working groups help to support efficient and effective discussions and work products. JCP&L notes that the Proposal does not clearly specify utility involvement in two of the new working groups—the Equity Working Group and the Products Marketplace and Recycling Working Group. The Company believes that the utilities should be involved in these working groups and looks forward to participating and sharing their EE experience and expertise. As briefly stated above and as detailed below, the Products Marketplace and Recycling Working Group is unnecessary given the Company's recommendation to make these Utility-Administered programs.

- Program Administration

In the Proposal, at page 23, Staff proposes that the Residential Retail Products Program be State-Administered, and that the Energy Efficiency Products Marketplace, and Appliance Recycling Programs be Co-Managed. JCP&L recommends that these programs be administered by the utilities for various reasons. First, making these programs utility-administered avoids fracturing or degrading the experience of residential customers that would result from requiring them to engage through different program administration structures for consumer products and the utility-run residential programs. Second, this approach eliminates the need for the customer to contact multiple people to participate in the programs available to residential customers, improving customer service, customer experience and avoiding customer confusion. Third, these are mass market programs that involve customer education and marketing and local community and retailer engagement. By making these utility-managed programs, the utilities will be able to better leverage, coordinate and promote these offerings with their other program offerings including the marketing and outreach to residential customers, local communities and local retailers across the utility's service territory.

Regarding the Co-Managed programs, Appliance Recycling and Energy Efficiency Products Marketplace, the Proposal further provides that these "programs be administered with close oversight and collaboration between the State and utilities in order to leverage the strengths of both program administrators and ensure that all customers are served most effectively." JCP&L continues to believe that this administrative structure is complex and can result in unnecessary administrative hurdles that will impede program performance and lead to administrative inefficiencies and increased costs. As with the other utility managed programs, the utilities can collaborate to design and implement these programs in a similar or consistent manner and develop processes where available to meet the State's objective to ensure that all customers are served effectively while minimizing program administration.

- Program Flexibility

In the Proposal at pages 26-27, Staff recognizes the need for flexibility with program implementation and modifications; however, JCP&L believes the flexibility parameters in the Proposal to be too narrow, as was suggested by several stakeholders during the April 1, 2020 webinar for stakeholder feedback. The Company fully appreciates the framework envisioned by Staff and the steps it takes to ensure that the utilities have sufficient flexibility in program implementation to quickly respond to market conditions and program performance. However, JCP&L recommends that increased budget and incentive flexibility be provided, as more fully described below, to provide the utilities with the ability to timely and efficiently make program modifications. JCP&L's proposed framework is based on best practices in EE portfolio implementation in other jurisdictions and aligns with implementation strategies utilized by JCP&L's affiliated utilities in other states. In short, JCP&L proposes that utilities be permitted to shift budgets and incentives between sectors and programs, and be given the flexibility to adjust incentives within approved limits more easily, in order to fully leverage the savings potential of successful programs, drive market activity as needed to maximize program performance, and to quickly react to both market conditions and program performance. This additional flexibility will best support the utilities' efforts to reach the CEA's aggressive savings targets.

The Company recommends that the Board adopt the following approach to program flexibility in budgets and incentives. This process aligns with best practices seen by JCP&L's affiliated utilities in other jurisdictions:

- Budget shifts for low and moderate income ("LMI") and small business customers;
    - Budget shifts for LMI and small business customers permitted up to 10% of the individual program budget with Staff notification;
    - Budget shifts between 10% and 20% permitted with Staff approval;
    - Budget shifts exceeding 20% of the individual program budget permitted with Board approval;
- Budget shifts between sectors (excluding LMI and small business customers);
    - Budget shifts up to 25% of approved levels permitted with Staff notification;
    - Budget shifts exceeding 25% of approved levels permitted with Board approval;
- Budget shifts within a sector (excluding LMI and small business customers):
    - Budget shifts up to 50% of the individual program budget between or among programs in the same sector permitted with Staff notification (this applies only to a utility's budget when the shift would not result in a change to the utility's overall budget);
    - Budget shifts exceeding 50% permitted with Board approval;
- Measure incentives:
    - Permit incentive increases of up to 50% with Staff notification;
    - Permit incentive decreases or increases of more than 50% with Board approval; and

- Permit incentive decreases in any amount.

Providing the utilities with this program budget flexibility will allow them to rapidly react to changing market conditions and program performance. Further, the increased incentive flexibility will give utilities the option to fine tune their incentives to developments in customer conduct and market conditions. JCP&L strongly agrees with the need for flexibility in program implementation, as envisioned by the Proposal, and believes that the proposed increased flexibility in program budget and incentive adjustments will better support the efforts of all program administrators to meet their aggressive targets in a prudent, timely and efficient manner, while maximizing program performance and cost-effectiveness to the benefit of all customers.

- Program Budgets and Funding

The Proposal at page 28 states that "[u]tility filings should include cost projections within the range detailed in Appendix E or submit justification supporting their nonconformance." Appendix E further clarifies that that the budgets "were modeled based on nation-leading programs in Massachusetts and Rhode Island." There is further discussion in Appendix E, indicating that budgets were scaled based on load by sector—residential and commercial/industrial; however, there is no discussion on how or if the budgets were adjusted to take into account the myriad of other factors that can impact program budgets and result in variations that exist in acquisition costs between different states. Factors such as end-use load shapes, hours of use, climate zone, energy rates, equipment saturation, among other things, can significantly impact program and measure potential and ultimately the acquisition cost needed to achieve program targets. The Company appreciates the Proposal's recognition that these estimated ranges are uncertain and its suggestion to allow the utilities to file plans with sector-based costs to achieve that are within ten percent (10%) of the estimates. The Company believes, however, that the cost ranges are too narrow given the uncertainty in translating costs from only two states to New Jersey, especially in light of the need to further develop the MPS. As such, the Company recommends that the ranges be expanded to allow the utilities to file plans with sector-based costs to achieve that are within twenty-five percent (25%) of the estimated ranges, with justification for the variance. This expanded range better reflects the amount of uncertainty that still exists for underlying acquisition costs and how those costs will apply to New Jersey's programs.

Application of Utility Targets

- Metrics and QPIs

The CEA contemplates that annual savings requirements will not be implemented until five years after the utilities have implemented their programs. Consistent with this language, JCP&L recommends that for the first triennial period there be no performance penalties or incentives applied. Instead, this period should be used to ensure a smooth transition of programs, establish baseline performance, and perform additional New Jersey-specific research from which future territory-specific targets can be established for the utilities.

- Savings Targets Should Initially be based on the 2% CEA Statutory Target at a gross savings level

In assigning the estimated statewide potential to the individual utilities in the Optimal Energy MPS that was adopted in Staff's recommendation, "[u]tility-specific sales forecasts were used as weights to assign individual utility shares of the estimated statewide potential for electric and gas efficiency." (MPS at 28). This arbitrary assignment is flawed and does not constitute the individualized assessment required under the CEA. Notably, the law requires that:

> . . . the board shall adopt quantitative performance indicators pursuant to the "Administrative Procedure Act," P.L. 1968, c. 401 (C.52:14B-1 et seq) for each electric public utility and gas public utility, which shall establish reasonably achievable targets for energy usage reductions and peak demand reductions and take into account the public utility's energy efficiency measures and other non-utility energy efficiency measures…

Furthermore, N.J.S.A. 48:3-87.9(b) provides that:

> …the board shall conduct and complete a study to determine the energy savings targets for full economic, cost effective potential for electricity usage reduction and natural gas usage reduction as well as the potential for peak demand reduction by the customers of each electric public utility and gas public utility . . . (emphasis added)

While the utilities are in the process of completing a demographic study, as directed by the Board, simply allocating the statewide savings potential to each of the utilities based on sales forecasts does not satisfy the law's requirement to determine the potential for each public utility. This methodology also does not "establish reasonably achievable targets for energy usage reductions and peak demand reductions and take into account the public utility's energy efficiency measures and other non-utility energy efficiency measures…" Moreover, assigning the statewide savings potential in such a manner is flawed because it does not account for differences in customer demographics, avoided costs, market barriers, and other factors, that can vary significantly amongst utilities—and will not even begin to be known until at least after the completion of the utilities' customer demographic studies.

The energy savings targets proposed by the fifth year in the Proposal are a significant increase over the already-challenging targets mandated in the CEA. The proposal targets 2.15% electric savings and 1.1% gas savings by year five, exceeding the requirements of the CEA. According to the ACEEE 2018 State Energy Efficiency Scorecard, these electricity savings levels were only achieved by three states—Vermont, Rhode Island, and Massachusetts.

The aggressiveness of the proposed targets is further exacerbated by the decision to use net as opposed to gross savings. For example, the Proposal's 2.15% target in year five grows to nearly 2.56% when accounting for the initial 0.84 Net-to-Gross ("NTG") ratio that is contemplated. The combined effects of these decisions compound what utilities and others will be required to achieve

and will lead to increased bill impacts to ratepayers as a result of efficiency programs that must be designed to achieve savings that are well in excess of the targets contemplated by the CEA.

- NJCEP Annual Energy Savings Targets

While JCP&L agrees that annual savings from programs administered by NJCEP should be subtracted from the utility-specific targets, the NJCEP targets should be based on the maximum achievable potential of the programs NJCEP will be running, to the same extent as the utilities. Doing otherwise only makes the targets assigned to the utilities unreasonable and unattainable. As an example, when considering the achievable potential savings by end use for residential programs, as set forth on page 23 of the MPS, a significant portion of savings is being projected from end use technologies that are included in the NJCEP core programs, including the Retail Products Program which includes appliances, lighting, refrigeration and plug loads. The NJCEP targets should be reevaluated to ensure that they are set to capture an appropriate portion of the achievable potential savings in relation to the utility targets.

Furthermore, the NJCEP Annual Energy Savings Target(s) do not adequately account for the savings that will come from increased codes and standards, as required by the CEA. To ensure that the utilities get credit for savings resulting from increasing codes and standards, as mandated by the CEA, the Company recommends that the NJCEP targets be increased to reflect the savings that are anticipated to come from codes and standards. Not factoring this into the NJCEP targets results in the utilities having unreasonable and likely unattainable energy savings targets.

Cost Recovery and Performance Incentives

- ROE Reduction

The Proposal's recommendation that the Board impose a 100 basis point penalty on all EE investments is unsupported and contrary to the provisions of the CEA.

As an initial matter, the CEA clearly permits a utility to expense its costs of running EE and PDR programs. More specifically, the CEA provides that: "Each electric public utility and gas public utility shall file annually with the board a petition to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency and peak demand reduction programs required pursuant to this section, including but not limited to recovery of and on capital investment . . ." (emphasis added). Inarguably, this statutory language permits a utility to recover its EE and PDR program costs on a "full and current basis" by expensing those costs and recovering them on a contemporaneously.

Nonetheless, where a utility elects to amortize program costs over time, each utility's long-term cost of capital *(i.e.,* its weighted average cost of capital ("WACC")) is the most appropriate carrying cost. A utility's underlying cost of capital does not change as a result of investments being made in EE and PDR programs rather than in utility infrastructure. As detailed in JCP&L's previous comments, the assertion that EE and PDR investments are inherently less risky than other utility investments is not supported by the EE risk environment. Numerous business risks continue to exist regardless whether a utility's capital is going into EE/PDR programs or utility infrastructure, and additional risks arise specifically because of the

need to implement programs successfully under the CEA. Moreover, especially if lost revenue recovery is allowed for only a limited subset of the savings that result from EE in the State (in contravention to the terms of the CEA), a utility's risk profile may actually deteriorate between rate cases as revenues decrease because of EE adoption. As such, there is no basis to adjust the return that a utility receives on its EE and PDR investments based on the relative risk of EE/PDR investment versus infrastructure investment.

Moreover, Staff's reasoning that a reduction is warranted because recovery is through a surcharge (instead of base rates) is flawed for several reasons. First, the Proposal allows for contemporaneous recovery of only a portion of each utility's EE program costs as opposed to the "full and current" recovery of all reasonable and prudent EE program costs as contemplated by the act. Second, the CEA permits adjustments to a utility's ROE on EE investment only in the event of an incentive and/or penalty issued pursuant to the act and not because of some generalized belief that a utility's ROE would be different if these costs were included in base rates. See N.J.S.A. 48:3-87.9 (e)(4). Third, and finally, the CEA provides that any such adjustments "shall not be included in a revenue or cost in any base rate filing and shall be adopted by the board pursuant to the 'Administrative Procedure Act.'" Id. As such, the CEA makes clear that the consideration of how these costs would impact the utility's overall ROE (if at all) is not appropriate.

JCP&L recognizes and appreciates that the current version of the straw proposal attempted to respond to prior concerns from many parties that a 200 basis point reduction to the ROE component of utilities' capital structure was harmful and penalized the utilities for their investments in energy efficiency programs. However, even with the proposed changes to adjust such capital structure reduction to 100 basis points, the underlying investment disincentive still exists and does not put efficiency investment on a level playing field with more traditional utility investments.

Moreover, the proposed 100 basis point reduction could have an impact on the Company's credit metrics. When determining a utility's credit score, Moody's uses a combination of factors, including metrics related to financial strength and an assessment of the utility's ability to recover its costs and earn returns. The proposed basis point reduction will not only impact JCP&L's cashflow metrics (which is a measure of financial strength) but may also be viewed as a challenge to JCP&L's ability to recover its costs and earn returns. If these changes cause JCP&L's credit rating to be lowered by Moody's, it could potentially result in increased financing costs and greater costs to customers.

For these reasons, Board Staff should reconsider, and the Board should ultimately refuse to adopt, the proposed 100 basis point ROE reduction on the utilities' investments in EE programs.

- <u>Performance Incentive and Penalty Mechanism</u>

The incentive mechanism set forth in the Proposal is inconsistent with the CEA. In the Proposal, Board Staff recommends an incentive mechanism that can be summarized as follows:

- Carrying cost on unrecovered costs is the utility's cost of debt plus ROE less 100 basis points;

- For QPI achievement between 50 and 90%:
  - ROE on EE investment scales linearly downward to zero;
- For QPI achievement between 110 and150%:
  - ROE scales linearly upward to the ROE determined in the utility's most recent base rate case;
- For QPI achievement less than 50%:
  - Utility is assessed penalty of 0.75% of the base distribution revenue in the previous year.

As an initial matter, the incentive mechanism recommended in the Proposal is not an incentive at all. Rather, with the proposed 100 basis point adjustment, it is merely an opportunity for the utility to earn the return (WACC) that was duly authorized by the Board in its most recent rate case. As discussed above, a utility's WACC is its cost of capital to finance these investments in the first instance, which the utility is entitled to recoverbased on the CEA. Thus, at a minimum, the proposed "incentive" mechanism should be reconsidered to ensure that a utility that falls within the QPI "dead-band" receives its financing cost on its amortized EE investment at its WACC.

The proposed penalty mechanism similarly does not comply with the CEA. The act states that "adjustments [*i.e.* incentives and/or penalties] made pursuant to this subsection may be made through adjustments of the electric public utility's or gas public utility's [ROE] related to [EE] or peak demand reduction programs only, or a specified dollar amount, reflecting the incentive structure as established in this subsection." N.J.S.A. 48:3-87.9(e)(4) (emphasis added). Accordingly, the act permits two alternatives for the Board to provide incentives and penalties: (1) an adjustment to the ROE on EE investments; or (2) a specified dollar amount. The Proposal's mechanism, however, utilizes both a ROE adjustment and a monetary penalty. This is not permitted under the provisions of the CEA.

While performance incentive mechanisms vary state to state, the minimum threshold percentage of targets to be eligible for incentives ranges from 50% to 100% for states that have a minimum threshold, with no state having a minimum threshold above 100%[1]. Consistent with this, and recognizing the very aggressive targets under the CEA, JCP&L recommends that the Board adopt QPIs and an incentive mechanism that allows utilities to begin receiving incentives at 100% achievement and that a dead-band be applied for performance between 80 and 100%.

As discussed in prior comments, JCP&L recommends that the Board consider an incentive mechanism modeled after shared savings mechanisms utilized and proven in other jurisdictions that support efforts to maximize net program benefits. The performance incentives under a shared savings mechanism can be scalable using a tiered structure tied to the percentage attainment of the QPIs, similar to the following table. With a top incentive percentage of fifteen percent (15%) of net benefits, customers would be ensured to receive no less than eighty-seven percent (85%) of the

[1] Beyond Carrots for Utilities: A National Review of Performance Incentives for Energy Efficiency, ACEEE Report U1504, May 2015.

net benefits generated by the programs. This tiered structure aligns the interests of the utilities with the interests of customers as it incents the utilities to maximize program savings and minimize program cots in order to maximize the programs' net benefits to customers. The following table illustrates the incentive mechanism based on establishing a minimum threshold to be eligible for an incentive at 100% of the target.

Incentive Tier	Compliance Percentage	Incentive Percentage
2	>100-105%	5.0%
3	>105-110%	7.5%
4	>110-115%	12.5%
5	>115%	15.0%

JCP&L urges the Board to ensure that any final penalty framework embed discretionary authority for the Board or Staff to waive penalties, when to assess a penalty or adjust targets based on factors outside the Company's control. The Board should also have discretion on the just and reasonable amount of any penalty taking into account the specific circumstances contributing to non-compliance. This approach is consistent with the CEA's mandate that the Board consider appropriate factors to "ensure that the public utilities incentives or penalties . . . are based upon performance" (*see* N.J.S.A. 48:3-87.9(c)) and can address concerns that factors outside the utilities' control may influence their ability to achieve aggressive targets.

- Investment Treatment

JCP&L appreciates the work that Board Staff has undertaken to develop the Straw Proposal and Staff's continued interest in providing for a uniform cost recovery framework to aid in New Jersey's EE transition. However, JCP&L is concerned that a single mandated uniform approach to cost recovery (such as the one set forth in the Proposal) will result in the foregoing of numerous benefits associated with allowing each utility to propose its own framework for cost recovery in the context of a proceeding to establish its EE programs. These benefits include allowing each utility the flexibility to propose a cost recovery framework that will best support its offering of EE programs and providing stakeholders with the opportunity to evaluate each utility's proposed framework within the context of the utility's proposed program portfolio. Allowing each utility to propose the cost recovery mechanism for its programs will also provide the Board with an opportunity to learn from various approaches to cost recovery for EE programs.

The Board allowing each utility the opportunity to propose its own cost recovery mechanism is also consistent with the language and intent of the CEA, which provides that "[e]ach electric public utility and gas public utility shall file annually with the board a petition to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of [EE] programs and peak demand reduction programs required pursuant to this section . . ." N.J.S.A. 48:3-87.9(e)(1) (emphasis added). This provision requires that each utility make an annual

filing for the recovery of its reasonable and prudent costs "on a full and current basis through a surcharge." As such, the CEA clearly permits the expensing of program costs on an annual basis by each utility, as demonstrated by its recovery filing. In stark contrast, the Proposal mandates that each utility recover all program costs (other than those related to operations and maintenance) over a seven-year period. By mandating a specific form of cost recovery, especially one that does not provide for "full and current" recovery of a utility's EE program costs, the Proposal violates the CEA's mandate.

The Company further notes that the proposal to recover program investments over a seven-year period generated much comment among parties at the April 1, 2020 stakeholder meeting, with many parties advocating a much longer recovery period. As proposed above, the Company recommends that the Board acknowledge this feedback by, at a minimum, allowing each utility to file its own cost recovery approach, including a proposed amortization period, that is appropriate considering the size and scope of the proposed programs. This will allow the Board to better tailor the solution to its concerns about rate impacts to each utility's customers and EE needs.

Lost Revenue Treatment

Although the Proposal recognizes Staff's hope that the proposed limited decoupling mechanism will provide all utilities freedom to aggressively pursue and endorse energy efficiency, the proposed approach ultimately fails to achieve that end and is inconsistent with the directive in the CEA. Specifically, the CEA provides that:

> Each electric and gas public utility shall file annually with the board a petition **to recover on a full and current basis** through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency programs and peak demand reduction programs required pursuant to this section, including but not limited to . . . **the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules** . . . N.J.S.A. 48:3-87.9(e)(1). (Emphasis added)

As presently structured, the proposed lost recovery mechanism does not fully offset the reduced distribution sales that result from the CEA and, therefore, serves as a penalty for utilities in their pursuit of the CEA's aggressive energy efficiency goals. The shortcomings of the proposed mechanism and proposed resolution include:

- The mechanism provides for lost revenue recovery of utility-run programs only. The Proposal must be adjusted to allow for recovery of lost revenues resulting from all programs, including state-run programs as well as co-managed programs.
    - The NJCEP savings account for 24% of the targets.
    - The Proposal, therefore, is de facto imposing a recovery penalty of 24% to the utilities because these programs are directed by the State rather than the utilities. Under this construct, the utilities will be incentivized to discourage participation in the State's programs in favor of participation in its own programs.

- The proposed mechanism provides for lost revenue recovery on a net-savings basis, which fails to recover on a full basis all of the distribution revenues lost as a result of the State's

efficiency gains. The mechanism should be adjusted to provide for lost revenue recovery of sales on a gross, ex-post savings basis. Gross savings, as opposed to net savings, is the appropriate measurement to be used because:

- Gross, ex-post efficiency savings are the actual, quantified program impacts captured through efficiency programs and should be the basis for recovery;
- Net levels set in the Proposal based on historic values from other jurisdictions ***have no basis*** in New Jersey based on the novel program mix and shared responsibilities in the Proposal;
- Net levels are based on survey results and can rely on consumers recalling activities or thought processes that occurred months or even years in the past; and
- Missing savings between net and gross measurements include the effects of market transformation that occurs over time as a result of the utilities' program marketing and operations to promote energy efficiency and conservation by their customers.

The Proposal also recommends that the Board require the utilities to pass an "earnings test" to receive recovery of their lost revenues. Requiring the utilities to pass such an earnings test is inconsistent with the CEA, which recognizes the revenue impact of lost sales as a reasonable and prudent cost of the State's EE program offerings. The Board should refuse to consider such a proposal.

- Energy Efficiency as a Resource

The Proposal, at page 43, specifies that:

> *The utilities will use all commercially reasonable efforts to register, nominate, and/or bid each year's expected megawatt ("MW") reduction resulting from the energy efficiency transition program(s) into any and all PJM market(s) and/or programs for which the energy efficiency transition program(s) are eligible during the life of the energy efficiency transition program(s). Should the utility decide not to bid each year's expected MW reduction into the PJM markets, including for the core programs and any additional programs proposed, the utility must submit sufficient documentation explaining the reasons why it is economically infeasible to do so. This evaluation should cover considerations such as the effects of PJM's Minimum Offer Price Rule, PJM's rules for Energy Efficiency in the Reliability Pricing Model (RPM)[2], and the expected revenue from that participation.*

JCP&L believes that this requirement is unreasonable for various reasons, namely that: (1) actual program participation results can vary significantly from what was projected in each utility's EE and PDR program plan for many reasons (e.g. uncertainty with program ramp up, measure mix, customer adoption, market and economic conditions, other factors beyond the control of the individual utilities, etc.); (2) not all of "*each year's expected megawatt ("MW") reduction resulting from the energy efficiency transition program(s)"* will be eligible for PJM or the utilities

may not have ownership rights to the savings; and (3) not all of *"each year's expected megawatt ("MW") reduction resulting from the energy efficiency transition program(s)"* will be of a sufficient scale to warrant the costs to "*register, nominate, and/or bid*" the resource or justify the cost of the incremental measurement and verification of the resource's savings, which is required per PJM standards.

Requiring the utilities to "*register, nominate, and/or bid*" each year's expected MW reductions is highly speculative and can subject utilities and customers to financial harm. Given that the PJM base residual auctions ("BRAs") are for delivery years three years into the future, there are too many unknowns and uncertainties associated with attempting to guess what future energy efficiency or load management resources will be installed, which of those will qualify at the time of delivery to meet the projected commitments and meet PJM measurement and verification standards.

At a minimum, the Board should recognize that the utilities face increased risks by participating in such a venture. As the entity bidding in the projected savings from their EE programs into the PJM market, the utilities are responsible for delivering the resources. If they do not materialize, the utilities would be responsible for either purchasing the resources or paying penalties. Through its cost recovery mechanism, and in recognition of this risk, a utility should be made whole for any costs it incurs by covering such a shortfall.

As an alternative, the Company recommends that the Board instead require utilities to develop a plan to "*register, nominate, and/or bid*" a portion of each year's expected MW reductions taking all of these factors into account. The Company acknowledges Staff's underlying interest in maximizing the resources offered into and revenues from the PJM market to the benefit of New Jersey customers. In order to encourage and drive this activity in the most prudent manner and create a "win-win" opportunity for customers, stakeholders, and the utilities, the Company recommends a PJM revenue sharing mechanism, whereby customers and utilities each receive a portion of the revenues from PJM participation for qualified EE and PDR resources.

Evaluation, Measurement and Verification

- Cost Effectiveness Test

As has been indicated by numerous stakeholders previously, JCP&L believes that the primary cost effectiveness test should be the Societal Cost Test ("SCT"). The SCT is the only cost effectiveness test that is consistent with the language of the CEA, which states "[t]he energy efficiency programs and peak demand reduction programs shall have a benefit to cost ratio greater than or equal to 1.0 at the portfolio level, considering both economic and environmental factors." JCP&L further recommends that the Board require only the SCT and the Total Resource Cost ("TRC") Test, as these are the primary and common tests predominantly used in the industry to assess program cost-effectiveness. These tests provide benefit-cost analysis perspectives that focus on society as a whole and the combined perspective of the utility system and participants, ensuring that stakeholders have the necessary information for decision making. Requiring only the SCT and TRC tests streamlines administration, avoids unnecessary requirements, allows

benchmarking for both New Jersey and other industry programs, and supports the efficient review of the cost/benefit analysis provided by all program administrators in their program filings.

Further, the Company recommends that the avoided cost methodology, including the calculations and sources, be developed on a statewide basis (e.g. such as through an avoided cost calculator or otherwise by a single entity such as the Statewide Evaluator or the EM&V working group) for use by all program administrators in their program filings, with utility-specific inputs where appropriate. This is an industry best practice and is performed in other states, such as Maryland[2] and Pennsylvania[3]. This practice ensures avoided costs are developed to align with state policies, are appropriately valued or monetized following New Jersey policy, are fully transparent to all parties, and utilize a consistent methodology among all program administrators. In addition, developing the avoided cost and benefits using a consistent methodology on a statewide basis further supports the efficient review of the avoided costs prior to the program filings, as well as the cost/benefit analysis provided by all program administrators in their program filings and reports.

Lastly, the Company recommends that the cost-effectiveness analysis be based on avoided costs or benefits that are fully vetted, determined to be reasonable, and readily quantifiable with a sufficient degree of certainty. JCP&L agrees with the Proposal, at page 51, where it states:

> *Some of the non-energy impacts (benefits and costs) have been proposed in literature or are being tested in other states. Some of these parameters are relatively easy and inexpensive to measure or estimate, while others are more difficult and/or expense to measure or estimate.*

As such, the Company continues to advocate that the Board exercise caution when designing cost-benefit analyses of the EE programs to ensure that customers get the most value from implemented programs.

- Net vs Gross Savings

Staff recommends in the Proposal, at pages 52-53, that "energy savings should be reported in both gross and net savings, with net saving utilized for all aspects of program review, including cost-effectiveness testing and compliance." While JCP&L agrees that net savings are valuable and should be used for certain aspects of program review, including both program design and cost-

[2] The Maryland Energy Administration lead a process to develop the avoided costs methodology, including the calculations, sources and resulting values, that were used by the utilities submitting program plans under EmPOWER Maryland for their 2015-2017 program plans. The avoided costs were updated by the statewide utility evaluator for the 2018-2020 program cycle and are currently being updated by the statewide utility evaluator for the 2021-2023 program cycle.

[3] The Pennsylvania Public Utility Commission issues an Order prior to each phase of Act 129 that establishes the cost-effectiveness testing and the avoided costs and benefits methodology to be followed by the utilities in their program filings and annual reports. The most recent Order, issued December 18, 2019 under docket M-2019-3006868, is for a potential Phase IV of Act 129 which begins June 1, 2021 and includes an avoided cost calculator that was developed by the Statewide Evaluator. See http://www.puc.pa.gov/filing_resources/issues_laws_regulations/act_129_information/total_resource_cost_test.aspx.

effectiveness testing, JCP&L recommends that gross savings be used to determine compliance for various reasons.

First, using net savings for compliance will arbitrarily discount the actual savings achieved by the programs. Based on the Proposal's planned use of an initial, arbitrary net-to-gross ratio of 84%, this equates to a 16% discount of actual savings achieved in the State. Thus, when you consider the 2.15% electric savings target established in the straw proposal, using an assumed .84 net-to-gross factor, the actual energy savings that would need to be achieved to reach that threshold would be 2.56%, or 41 basis points higher than the target in the Proposal.

Second, as Staff recognizes in the Proposal, NTG assumptions "may change significantly" for many reasons including incentive amount, program design, implementation detail, and marketing effort. Many other factors can influence NTG ratios as well such as energy rates, economic factors, and other market conditions that change over time. The determination of net savings (which attempts to adjust savings measurements for factors like "free ridership") also introduces ambiguity and the potential for survey bias into the determination of the savings achieved by the programs. Net savings determinations require potentially extensive and lengthy research, where net savings results are not known until after the fact and potentially well after a program year is complete. To this point, the Proposal indicates that the Board will coordinate the release of a net versus gross study, and that the EM&V working group will review NTG ratios annually. As such, program administrators would not be able to adjust program operations to react to changing NTG ratios to strive to meet compliance targets. Simply put, it is not reasonable or practical to determine compliance based on net savings due to both these timing issues and all the factors that are beyond the control of the program administrator. Furthermore, it would be entirely inappropriate to establish compliance targets and to determine compliance with those targets based on different assumptions than those used to establish the targets.

Gross savings reflect what the program administrators can control. Furthermore, gross savings measure the actual energy and demand savings that are realized by the State. N.J.S.A. 48:3-87.9(c) states that the savings targets can be met not only from efficiency programs, but also from improvements in other codes and standards. The Staff's proposal to form an Energy Code Compliance review panel, which will identify opportunities for greater energy efficiency via building energy code strategies and quantify the energy savings that could result from updates to energy codes, as allowed for under the CEA, further supports our argument that it does not make sense to utilize net savings when determining compliance. Counting savings for updates to building codes is the very definition of free ridership and would not qualify under net savings calculations. Based on this provision, it is clear that the intent of the CEA was not to unnecessarily raise the ability for targets to be reached—not to mention the costs of implementing these efficiency programs by utilizing net savings—but to count all savings attributable to EE efforts in New Jersey. As such, the CEA contemplates, and consistent with industry practice, that the targets defined in the legislation are based on gross savings.

In conclusion, net savings are appropriate to be used for program planning purposes and to determine the cost-effectiveness of programs and program portfolios. However, for the reasons set forth above, JCP&L continues to believe that gross savings are the appropriate measurement

for determining utility compliance with targets and QPIs, as well as the determination of lost revenues.

Filing and Reporting

- Utility Program Filings

JCP&L appreciates Staff's review of and proposal to revise the Minimum Filing Requirements ("MFRs"), recognizing "guiding principles for filing and reporting requirements." JCP&L strongly agrees with the following guiding principle:

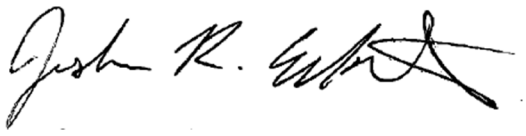
> *Filing and reporting requirements should strike a balance between what is useful or valuable for the purposes of compliance, evaluation, or improvement, on the one hand, and what is unnecessary, unreliable, or unduly costly or burdensome, on the other hand.*

The CEA sets extremely ambitious savings targets that will require extensive program offerings, with program filings being completed and reviewed concurrently on a statewide basis by all parties. Given this, the MFRs should strongly consider this overarching legislative requirement and timeline to ensure that the requirements only require the information necessary for the Board to review the program filings as required by the CEA. This will support the most efficient development of program filings by the various program administrators as well as the most efficient review of the filings by the Board and other stakeholders. To accommodate this, the Company has reviewed the MFRs established in the straw proposal and provides further recommended edits as included Attachment 1.

* * * * *

JCP&L again thanks the Board for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Joshua R. Eckert
Counsel for Jersey Central Power & Light Company

Appendix F: Minimum Filing Requirements

Staff proposes the following changes to the current MFRs, with proposed additions underlined and proposed deletions struck out.

I. General Filing Requirements

a. The utility shall provide with all filings, information and data pertaining to the specific utility-led and co-managed program proposed, as set forth in applicable sections of N.J.A.C. 14:1-5.11 and N.J.A.C. 14:1-5.12.

b. All filings shall contain information and financial statements for the proposed program(s) in accordance with the applicable Uniform System of Accounts that is set forth in N.J.A.C. 14:1-5.12. The utility shall provide the Accounts and Account numbers that will be utilized in booking the revenues, costs, expenses, and assets pertaining to each proposed program so that they can be properly separated and allocated from other regulated and/or other programs.

c. The utility shall provide supporting explanations, assumptions, calculations, and work papers as necessary for each proposed program and cost recovery mechanism petition filed under N.J.S.A. 48:3-98.1~~, including the rationale for selecting the approach included in its proposed program(s), and for all qualitative and quantitative analyses therein~~. The utility shall provide electronic copies of ~~all materials and supporting schedules,~~such supporting information with all inputs and formulae intact, where applicable.

d. The filing shall include testimony supporting the petition, including all proposed programs.

e. For any proposed program, the utility shall be subject to the requirements in this and all subsequent Sections. If compliance with Part V of these requirements would not be feasible for a particular program or sub-program, the utility may request an exemption but must demonstrate why such exemption should be granted. Examples of historical situations that have qualified for exemption include programs that had an educational rather than equipment-based focus and programs that introduced novel ideas where documentation supporting estimated costs/benefits may not be easily produced.

f. If the utility is filing for an increase in rates, charges, etc. or for approval of a program that may increase rates/changes to ratepayers in the future, the utility shall include a draft public notice with the petition and proposed publication dates.

II. Program Description

a. The utility shall provide a detailed description of each proposed program for which the utility seeks approval, including, if applicable:
   i. Program description/design~~, including an evaluation plan~~
   ii. Target market segment/efficiency, including eligible customers and measures/services
   iii. Existing incentives
   iv. Proposed incentives
   v. Program delivery method

vi. Contractor role: The utility shall provide the extent to which the utility intends to utilize employees, contractors, or both to deliver the program(s) and, to the extent applicable, the criteria the utility will use for contractor selection.

vii. Estimated program participants, by year

viii. Projected ~~gross~~ energy savings and associated calculations for each program year

- ~~Net a~~Annual energy savings
- ~~Net a~~Annual peak demand savings
- ~~Net l~~Lifetime energy savings
- ~~Net l~~Lifetime demand savings
- ~~Net l~~Lifetime energy savings derived from qualifying low-income customers
- ~~Net l~~Lifetime savings derived from qualifying small business customers

ix. Program budget, by year

x. Program costs, by year, broken down into the following categories: capital cost, utility administration; marketing~~; and sales; contractor training~~outside services; incentives (including rebates and low- or no- interest loans); ~~inspections and quality control;~~ and evaluation. To the extent that the Board directs the New Jersey Clean Energy Program ("NJCEP") to report additional categories, the utility shall provide additional categories, as applicable.

xi. Implementation plan~~, by year,~~ for all proposed programs[1]

xii. Marketing plan: The utility shall provide a description of where and how the proposed program(s)/project(s) will be marketed or promoted throughout the demographic segments of the utility's customer base. This shall include an explanation of how the specific service, along with prices, incentives, and energy bill savings for each proposed program/project, will be conveyed to customers, where available and applicable. The marketing plan shall also include strategies to address known market barriers~~ and shall express the plan for collaborating with Board staff and the Marketing & Communications Working Group (MC WG) to coordinate on marketing plans~~.

xiii. ~~Market barriers~~[2]

~~xiv. Relationship to existing programs~~[3]

~~xv. Relationship to New Jersey state energy policy: The utility shall provide a detailed description of how the proposed program(s) comport with New Jersey state energy policy as reflected in reports, including but not limited to the prevailing New Jersey Energy Master Plan and the greenhouse gas emissions reports issued by the New Jersey Department of Environmental Protection pursuant to N.J.S.A. 26:2C-42(b) and (c) and N.J.S.A. 262:2C-43 of the New Jersey Global Warming Response Act, N.J.S.A. 26:2C-37 *et seq.*~~[4]

~~xvi.~~xiv. ~~Anticipated job creation~~[5]

~~xvii.~~xv. ~~Environmental emissions savings~~[6]

b. The utility shall provide the following information about the proposed portfolio:

i. Quality assurance plan, including resolution of customer complaints: The utility shall provide a detailed description of the process(es) for ensuring the quality of the programs and the process(es) for resolving any customer complaints related to the programs.

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[1] Staff requests stakeholder input about the definition of this requirement.

[2] Staff proposes to assess this information in the EM&V process.

[3] Staff requests input about whether this information is no longer applicable or whether it should be more fully defined.

[4] Staff requests input about whether this information is no longer applicable, should remain a filing requirement, or should be considered in the EM&V process.

[5] Staff proposes to assess this information in the EM&V process.

[6] Staff proposes to asses this information in the EM&V process.

ii. Total budget summary, including an annual budget summary
iii. Benefit-cost analysis (as defined in Section V)
iv. EM&V strategies/plan (as defined in Section VI)
v. Assessment of how the programs comprising the portfolio are designed to achieve the targets established pursuant to the utility's quantitative performance indicators (as defined in Section VII)
vi. Reporting plan (as defined in Section VIII)

III. Additional Filing Information

~~The utility shall describe whether the proposed program(s) will generate incremental activity in the energy efficiency/ conservation/ renewable energy marketplace and what, if any, impact on competition may be created, including any impact on employment, economic development, and the development of new business, with all supporting documentation. This shall include a breakdown of the impact on the employment within this marketplace as follows: marketing/sales, training, program implementation, installation, equipment, manufacturing, evaluation, and other applicable markets. With respect to the impact on competition the analysis should include the competition between utilities and other entities already currently delivering the service in the market or new markets that may be created, where applicable. The analysis should also address competition with other entities already currently delivering the service in the market and new markets that may be created, where applicable.~~[7]

a. a. The utility shall propose the method for treatment of Renewable Energy Certificates ("RECs"), including solar incentives, or any other renewable energy incentive developed by the Board of Public Utilities ("BPU" or "Board"), including Greenhouse Gas Emissions Portfolio and Energy Efficiency Portfolio Standards including ownership and use of the certificate revenue stream(s).

b. b. The utility shall also propose the method for treatment of any air emission credits and offsets, including Regional Greenhouse Gas Initiative carbon dioxide allowances and offsets, including ownership and use of the certificate revenue stream(s). For programs that are anticipated to reduce electricity sales in its service territory, the utility shall quantify the expected associated annual savings in REC, solar incentive, and any other renewable energy incentive costs.

IV. Cost Recovery Mechanism

a. The utility shall provide appropriate financial data for the proposed program(s), including estimated revenues, expenses, and capitalized investments for each of the first three years of operations and at the beginning and end of each year of the three-year period. The utility shall include pro forma income statements for the proposed program(s) for each of the first three years of operations and actual or estimated balance sheets at the beginning and end of each year of the three-year period.
b. The utility shall provide detailed spreadsheets of the accounting treatment of the proposed cost recovery, including describing how costs will be amortized, which accounts will be debited or

[7] Proposed to be moved to and assessed as part of EM&V plans and reporting or at a statewide level by program administrators collaboratively

credited each month, and how the costs will flow through the proposed method of recovery of program costs.

c. The utility shall provide a detailed explanation, with all supporting documentation, of the recovery mechanism it proposes to utilize for cost recovery of the proposed program(s), including proposed recovery through the Societal Benefits Charge, a separate clause established for these programs, base rate revenue requirements, government funding reimbursement, retail margin, and/or other mechanisms.

d. The utility's petition for approval, including proposed tariff sheets and other required information, shall be verified as to its accuracy and shall be accompanied by a certification of service demonstrating that the petition was served on the New Jersey Division of Rate Counsel simultaneous to its submission to the Board.

e. The utility shall provide a rate impact summary by year for the proposed program(s) and a cumulative rate impact summary by year for all approved and proposed programs showing the impact of individual programs, based upon a revenue requirement analysis that identifies all estimated program costs and revenues for each proposed program on an annual basis. Such rate impacts shall be calculated for each customer class. The utility shall also provide an annual bill impact summary by year for each program, and an annual cumulative bill impact summary by year for all approved and proposed programs showing bill impacts on a typical customer for each class.

f. The utility shall provide, with supporting documentation, a detailed breakdown of the total costs for the proposed program(s), identified by cost segment (capitalized costs, operating expenses, administrative expenses, etc.). This shall also include a detailed analysis and breakdown and separation of the embedded and incremental costs that will be incurred to provide the services under the proposed program(s), with all supporting documentation. Embedded costs are costs that are provided for in the utility's base rates or through another rate mechanism. Incremental costs are costs associated with or created by the proposed program that are not provided for in base rates or another rate mechanism.

g. The utility shall provide a detailed revenue requirement analysis that clearly identifies all estimated annual program costs and revenues for the proposed program(s), including effects upon rate base and pro forma income calculations.

h. The utility shall provide, with supporting documentation: (i) a calculation of its current capital structure, as well as its calculation of the capital structure approved by the Board in its most recent electric and/or gas base rate cases, and (ii) a statement as to its allowed overall rate of return approved by the Board in its most recent electric and/or gas base rate cases.

i. If the utility is seeking carrying costs for a proposed program, the filing shall include a description of the methodology, capital structure, and capital cost rates used by the utility.

j. A utility seeking incentives shall provide all supporting justifications and rationales for incentives, along with supporting documentation, assumptions, and calculations. Utilities that have approved rate mechanisms or incentive treatment from previous cases and are not seeking a modification of such treatment through the current filing are not subject to this requirement.

V. Benefit-Cost Analysis

~~a.~~ The utility shall provide a detailed analysis with supporting documentation of the net benefits associated with the proposed program(s) and portfolio~~, including, if appropriate, an estimate of its projected avoided costs study, with supporting documentation and work papers. This estimate shall include avoided costs associated with, at a minimum, avoided fuel use, generation, losses, capacity~~

a. ~~requirements, transmission and distribution costs, emissions allowances, RECs and SRECs, and any savings associated with energy and capacity market impacts (i.e., DRIPE) of the program. This cost-benefit analysis should include consideration of seasonal savings and energy prices, and shall be performed on a Net Present Value ("NPV") basis specifying all financial assumptions, including inflation rate and discount rate. The value of the avoided environmental impacts and the environmental benefits and the value of any avoided or deferred energy infrastructure should be stated separately~~.

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

c. The utility must demonstrate how the results of the tests in section V(b) support Board approval of the proposed program(s), including how the programs are designed to achieve a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level when using the New Jersey Test.

d. Renewable energy programs shall not be subject to a cost/benefit test but the utility must quantify all direct and indirect benefits resulting from such a proposed program as well as provide the projected costs. ~~The utility must also demonstrate how such a proposed program will support energy and environmental statewide planning objectives, such as attainment of the Renewable Portfolio Standard and any emission requirements.~~

e. The level of energy and capacity savings utilized in these calculations shall be based upon the most recent Protocols to Measure Resource Savings approved by the Board to measure energy savings for the NJCEP. To the extent that a protocol does not exist or an alternative protocol is proposed for a filed program, the utility must submit a measurement methodology for the program or contemplated measure for approval by the Board.

f. For cost effectiveness calculations, the utility shall also estimate and reflect in the energy and capacity savings any free rider and spillover~~free driver~~ effects, i.e., savings associated with participating customers who would have implemented energy efficiency or renewable energy measures without N.J.S.A. 48:3-98.1 benefits or incentives.

VI. Evaluation, Measurement, and Verification

a. ~~The utility shall provide a quantitative analysis and projections of both the total and percentage reduction in its annual kWh and/or therm sales as a result of the proposed programs, as well as of the projected total in peak load reduction expected from the proposed program(s), over the lifetime of the measures included in the program(s). The utility shall also provide this information expressed as a percentage reduction relative to its current annual peak load.~~

b. ~~For renewable energy programs, the utility shall provide the anticipated contribution to annual KWh and peak load on an annual basis and for the service life of the renewable energy measure.~~

c. ~~EM&V plan: An EM&V plan for each program and the portfolio will include~~The utility shall describe the methodology, processes and strategies for monitoring and improving program and portfolio ~~progress on~~ performance related to the utility's targets established pursuant to the quantitative performance indicators.

   i. ~~Methodology for monitoring program progress on program areas 4 – 15 as described in Section II(a)~~

   ii. ~~Program progress results for each of the 12 program areas as compared to projections~~

iii. ~~Lessons learned in implementing the program with a focus on those related to exceeding or not reaching anticipated goals~~
iv. ~~Recommended program enhancements~~

VII. Quantitative Performance Indicators: Targets

a. The utility shall provide a description of how the proposed portfolio achieves the targets established for each utility pursuant to the following quantitative performance indicators:
   i. ~~Net a~~Annual energy savings
   ii. ~~Net a~~Annual peak demand savings
   iii. ~~Net l~~Lifetime energy savings
   iv. ~~Net l~~Lifetime demand savings
   v. Net present value of net benefits as determined by the Utility Cost Test
   vi. ~~Net l~~Lifetime energy savings derived from qualifying low-income customers
   vii. ~~Net l~~Lifetime savings derived from qualifying small business customers

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

a. Quarterly progress reports: No later than 60 days following the end of each quarter, the utility shall submit a user-friendly, public report, with accompanying spreadsheet(s), that includes an overview of program performance, a narrative about customer participation and incentives paid, and results on the following program-level parameters compared to program projections and goals:[8]

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

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

c. Triennial reports:

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

[8] Staff request stakeholder feedback on whether the list should also include rebates paid, number of projects completed, and number of projects in progress; Staff also requests feedback on whether this report should be a user-friendly, public report or simply a spreadsheet submitted to the State.

ii. Evaluation studies: No later than 365 days following the end of the third program year, the utility shall submit the process and impact evaluations pursuant to requirements issued by the Board.

From:	Jeanne Fox
To:	energyefficiency
Subject:	[EXTERNAL] Comments on Straw Proposal for New Jersey"s Energy Efficiency and Peak Demand Reduction Program
Date:	Saturday, April 18, 2020 11:20:16 AM

My comments are limited to areas of which I have some knowledge and which I believe are important. I do agree with much of what was set forth in the Straw Proposal.
These comments are in addition to what I stated at the April 1st Stakeholder meeting.

First, I commend the Board and the BPU staff for all of your hard work and your outreach to stakeholders. Your multiple drafts, requests for answers to important questions, and your numerous stakeholder/technical sessions are appreciated. You certainly received significant information, data and recommendations to absorb and consider. Thank you for your dedication to this critical component of moving the New Jersey Energy Master Plan (EMP) and the New Jersey Clean Energy Program (CEP) forward. Because, as we all know, one major way to address climate change is to use the least amount of electricity possible. Energy efficiency (EE) is job #1.

I also commend the staff for recommending "**Core Programs** (a main set of energy efficiency and peak demand reduction programs covering all customer sectors that all New Jersey ratepayers should have access to)" that "are best implemented with strong statewide coordination among utilities and between utilities and the State, to ensure consistency of program offerings throughout New Jersey." Perfectly stated! The NJ CEP's EE program should offer the significant EE programs to the entire state. This allows all New Jerseyans to benefit as well as allows the State's CEP and 3rd party suppliers to market & work state-wide. So, I applaud staff for realizing that State-wide programs are by far the best way to move ahead for consistency of message to customers and for ease of deployment, especially for third parties. Utilizing the core programs and coordinating the messaging with the electric and gas utilities will amplify the New Jersey Clean Energy Program Brand. That was the original intent when the Clean Energy Program was first established as a State-wide program almost two decades ago. I suggest that the CEP advertising normally include smaller logos for all of the participating utilities. And, that every utility advertisement always include a larger CEP logo than its own so that people recognize that this is a state-wide EE effort. Coordinated mass marketing will go a long way toward increasing NJ EE.

For the sake of long-term efficiency and effectiveness, the Board should start utilizing the **whole building** approach whenever possible. The Energy Master Plan: states the CEP should go beyond the current EE offerings and consolidate programs; mentions Whole House Interventions regarding Comfort Partners and

working with community-serving non-profits to deliver EE to LMI neighborhoods; and, speaks of combining incentives for Home Performance with Energy Star with solar incentives. Also, the Straw proposal mentions the whole building approach with regard to cost sharing and allocation of savings. But that is not enough. The CEP was working on this course a decade ago but a change in administration altered that intended plan. I urge that the NJCEP to quickly move in this direction over the next several years where all buildings - residential, commercial and industrial participate in the whole building technique. I recommend that a process be developed as soon as possible for the solar program so that an energy audit be done and EE measures be taken before solar is sized/installed. Obviously, that process would require stakeholder input. I suggest that the whole building approach become an integral part of the Successor CEP Solar Program.

A concurrent recommendation is that the Board start now with the whole building approach by having whole building energy audits done for LMI homes, and EE actions be taken, before solar is installed. Then the solar installation size will likely be reduced. In addition, the CEP should immediately coordinate with DEP regarding these houses so that the DEP lead remediation is implemented at the same time - most likely by the same installers. LMI homes are typically older thus have lead paint which is a direct and significant threat to the health of children.These same homes frequently have little or no insulation. An integrated BPU/DEP streamlined process should be established as soon as possible. This coordinated effort makes sense and, in the long term, is most cost effective. Please seriously consider PosiGen's successful combined LMI EE/Solar program - first occurring in New Orleans and Louisiana and then in Connecticut where they include EE with every solar installation. This should be at least an option in New Jersey.

New Jersey needs to work hard to integrate EE with solar. **Energy Storage** and Distributed Energy Resources should also be utilized more to help cut the peak. The BPU should provide guiding principles and frameworks for program design that will streamline the proposal process. The Board should direct the utilities to learn from other states that have successfully integrated storage into their peak demand reduction programs. For example, there are several programs currently available to customers or under consideration in Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. These programs largely leverage a customer's private capital investment in deploying resources on their premises and provide them compensation aligned with the savings to the entire system and all ratepayers. These programs are not incentive programs, where grants or rebates are provided to customers deploying assets. Rather, these programs are compensating customers for savings provided to the system.

One such program is "Bring Your Own Device" (BYOD) currently available for customers in Vermont, Massachusetts and New Hampshire. Under such a program, customers are able to provide peak demand reduction benefits and other grid

services to the utility and are compensated for the value they provide through an on-bill credit. The savings provided by customer-sited storage comes over time through the reduction of capacity obligation that the utility has in the wholesale market; without the need for costly grid upgrades, and perhaps most importantly, by improving the overall resiliency of the grid, including during extreme weather events. These programs also offer unique economic advantages to New Jersey, as they relieve ratepayers of investment risk. Public Service Enterprise Group is already quite familiar with the BYOD concept as it is currently implementing such a program in Long Island. This program provides space for the storage market to innovate and implement solutions that will achieve maximum program participation. I urge the BPU to replicate learnings from this program and extend the benefits to NJ's EDC customers.

I strongly concur with the many comments regarding **work force training** especially regarding LMI residents. This should be a joint program - EE coordinated with solar installation training for LMI people and possibly other EE technologies, e.g. heat pumps. The BPU should coordinate this training program with the Department of Labor and possibly with EDA, DEP and DCA. A state-wide training effort for LMI would fit perfectly into the Governor's comprehensive job growth strategy. Please seriously consider duplicating in New Jersey, PosiGen's proven program that trains LMI people in energy efficiency and solar installations.

This whole building rationale also leads me to urge you to eliminate current ban on Comfort Partners referring solar. That ban makes no sense.

Many LMI people live in multifamily housing without individual meters. The BPU should urge the **DCA** to require individual meters for future construction. How best to deal with such existing buildings has always been a tough one. I concur with the NJ Housing Authority that a more "robust" program is needed for when the landlord pays the tenant's utilities.

The BPU should work closely with DCA to upgrade NJ's new construction **building codes** to be much more energy efficient. DCA adopts the State's building codes, typically following the ICC codes. DCA should investigate 'best in class" international and other states' building codes for insulation, windows, etc. For example, for decades now, many European hotels have the room card "key" also being used for the room's electricity. NJ should certainly consider adopting at least parts of California's new construction building codes as well as something like the New York City "Stretch Building Code" or "beneficial strategic electrification." The EMP is moving towards all electric buildings so within the next five years building codes should mandate that new construction for residential and small commercial buildings be electric (including the basics for Electric Vehicles and with limited exceptions).

DCA and BPU should work with ACEEE and others to have cutting edge building codes as well as smart **appliance standards** established over the next five years for New Jersey. New Jersey should adopt best-in-class appliance standards. In the not too distant future, appliances should be required to be "smart" so that EDCs can manage them for Demand Reduction & peak-shaving.

The EMP also states that **heat pumps** must replace fossil fuels by 2050. So, as the EDF said, offering heating/cooling heat pumps now makes lots of sense. The CEP might want to develop a rebate program or some other incentive for these essential devices.

The **Credit Unions** Green Loan Program should be continued and even strengthened. They are independent of utilities and provide a low cost option for people who cannot get a bank to help them. Utilities should not be the only source of funding for customers EE. And, Credit Unions are more likely to succeed in LMI neighborhoods. The Green Loan Program is a model for EE programs and helps LMI extend their home equity. This should be in addition to utilities' "Pay as You Save" EE programs whereby the customer can pay off their EE costs via their EDC/Natural Gas utility monthly bill. Customers should have EE options.

I recommend that the CEP and the utility EE programs should initially be specifically targeted to the **most congested areas** of the State. This would help all customers by reducing the peak demand. In fact, other CEP programs, e.g. solar, might also be targeted. This would help reduce electricity costs for every customer in that congestion zone by cutting expensive peak load. The EDCs might be directed to do so and also to identify their most congested locations.

A State-wide **Evaluation Manager** hired by the BPU with individual utility Evaluation Managers makes sense. I ask you to seriously consider adding to the EM&V Technical Working Group, experts representing impacted stakeholders who might well have views other than that of the utilities or Rate Counsel. I also recommend that stakeholders be allowed to have their own experts on the working groups.

Per the Clean Energy Act, **Cost recovery** must be reasonable and prudent. I believe that the fairest cost recovery mechanism for customers would be completely based upon what loss was caused by the EE programs and nothing more. Also, you should consider as ACEEE pointed out, that good quantitative indicators exist and should be the basis for saving and performance - not expenses. Having said that, if the Board decides to go forward with the staff proposal (recoup expenditures, amortization, lost revenues and incentives/disincentives), an Electric Conservation Incentive Program (ECIP) seems to be the reasonable way to go in that the Natural Gas CIP has been quite successful for years now.

The NJBPU should never do "complete **decoupling**"(whatever that really is) unless and until another state demonstrates it over a number of years as a success for the ratepayers as well as for the utilities. My educated guess is that this will actually never occur. I do think it appropriate for the Board to retain its ability to consider other decoupling mechanisms such as alternative proposals for lost revenue recovery, however "complete decoupling" should never occur unless it is certain that ratepayers cannot be harmed. I agree with staff's view that such " decoupling" proposals are best reviewed and tested in the context of a base rate case, where all the relevant data is subject to the appropriate review. I concur with the opinion expressed by Rate Counsel and AARP that the BPU's EE Straw, as set forth, significantly lowers utilities risk. They will recoup annually! In addition to the decades-old example against total "decoupling" - utilities unfairly benefiting from a warm winter - there are also social/economic forces that impact as well, e.g. the world economy, the Great Recession and now, Covid-19. Utilities cannot be allowed to unfairly profit from circumstances such as these. Clearly, the Straw proposal results in a much lower level of risk to the utilities because of the contemporaneous recovery. I also note that shareholders invest in the parent holding company and not directly in the utility so there is less risk involved overall. The impact to customers is a critical factor that cannot be ignored by responsible regulators.

I suggest the staff consider merging the relevant proposed workgroups as subcommittees of the Energy Efficency Advisory Group (**ECAG**). This should probably include at least the **CPWG, MWG,EWG** and **MCWG** in that they all have much in common - most especially the staff and Board's concern about equity. Those workgroups would make initial recommendations to the ECAG who would discuss and then make final recommendations to the Board. This structure worked very well when the CEP was first established where we had a 21 member diverse/expert Clean Energy Council whose three subcommittees (EE, RE and Communications/Marketing) made recommendations to the CEC who then made recommendation to the Board for action. I urge that the ECAG be expanded to include other stakeholder experts.

The bold 2019 New Jersey Energy Master Plan recommended identifying barriers and going beyond the current Clean Energy Program (CEP) offerings. Because of the last administration, New Jersey is far behind on the EE front. Our ACEEE ranking went from a top ten state to a middling state. New Jersey can and should again be a Clean Energy national leader. The EE Straw certainly does improve greatly upon our existing EE programs but, unfortunately, does not take us there. This Straw is not "bold."
New Jersey has the ability to be in that top tier of EE states. And, the New Jersey Board of Public Utilities has the opportunity to take us there.

LATINO ACTION NETWORK

April 13, 2020

Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350

Dear Ms. Camacho-Welch

Thank you for the opportunity to participate in the discussion regarding the BPU's Straw Proposal. We at the Latino Action Network are extremely concerned with this issue as our community is among those most negatively affected by environmental hazards caused by energy inefficiency. Our children are over-represented in the population of those that suffer the ill effects of the burning of fossil fuels. This is why we are very interested in helping any plan that is adopted be a success.

The goals of the Board's Straw Proposal are ambitious, but for proposed policy to result in life-changing action within low-income communities, significant investments will be required. It is important for the board to understand that low-income communities are not monolithic, and multiple strategies will be required to effectuate outreach, follow-up, implementation and success related to energy efficiency programming. This includes owners of single-family homes, landlords, and renters.

It is also important that this plan include Spanish language materials and working with Spanish language local media and Latino Community Based Organizations that have decades of experience reaching out to our hard to reach community members. The Latino Action Network stands ready to share our expertise in this area in the interest in reaching the ambitious goals of this proposal.

Best regards,

Christian Estevez, President
Latino Action Network

2650 U.S. Highway 22, Suite 322, Scotch Plains, NJ 07076 – (973) 418-7012

From: Lauren Johnson
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition Straw Proposal
Date: Monday, April 13, 2020 2:29:59 PM

April 13, 2020

New Jersey Board of Public Utilities

Aida Camacho-Welch, Secretary

44 South Clinton Avenue

Post Office Box 350
Trenton, NJ 08625-0350

Dear Ms. Camacho-Welch:

As an elementary school teacher, environmental advocate and mom of two teenage children, I commend the Board of Public Utilities and Governor Murphy for making the commitment to achieving 100 percent clean energy in New Jersey by 2050. I believe there is no greater threat to the health of our next generation than global climate change. Bold action like New Jersey's Energy Master Plan is needed to protect our earth's precious resources for generations to come.

Energy efficiency programs are effective in reducing costs and carbon emissions, but only if there is wide-spread support and participation in all communities, not just in more affluent areas of the state. Unfortunately, this has been a trend in the past, leaving lower-income communities out in the cold. To break this barrier and bolster participation among everyone, the roll-out costs of the energy efficiency programs must be contained as much as possible. Giving utilities more time to finance the programs over 15 years would certainly help.

It's imperative every New Jerseyan is on board to make the Energy Master Plan a real climate change solution! Thank you for your leadership on this critical matter. I am grateful to be living in a state that prioritizes science and puts the health of its residents first.

Sincerely,
Lauren Johnson

One Worchester Lane

West Windsor, NJ 08550

From: Laurie Ruffenach
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition – Full Straw Proposal.
Date: Monday, April 13, 2020 3:07:11 PM

As a high school science teacher and environmental enthusiast, I am proud to be living in a state that's at the forefront of combatting global climate change. The Murphy Administration and Board of Public Utilities should be commended for putting forth a progressive plan to protect our environment that's expected to fuel economic growth and create well-paying jobs. I'm just hopeful that my students and their families have the same access to the economic benefits energy efficiency is expected to yield, as we know from the past that some communities have been left out.

As the state moves toward a clean energy economy, it's important that energy efficiency remains inclusive. To do this, the financial strain and stress of implementing the programs must be lifted off the shoulders of residents. One way this can be achieved is by decoupling and incentivizing the state's utilities to robustly invest in energy efficiency programs without worrying about their bottom line. That way, comprehensive energy efficiency programs can be launched, ultimately leading to residents in all communities reducing their energy usage and increasing their savings. This broad participation would enable utilities to focus on much-needed investment and job creation in historically underserved communities.

Additionally, stretching out the financing of energy efficiency programs for utilities over 15 years compared to 7 years, as suggested in the Straw Proposal, would help reduce the financial impact, particularly on residents in low- and moderate-income communities who already pay disproportionately more on their energy bills. Lengthening the time would also provide the highest correlation of cost to recovery benefits.

Energy efficiency is a crucial step in the process of combatting climate change, but it will only work if the right framework is put in place. And this framework must take into account all New Jerseyans, including my students and their families. Thank you.

Sincerely,

Laurie Ruffenach
llruffenach@verizon.net

Ms. Aida Camacho
Secretary of the Board
NJ Board of Public Utilites
44 S. Clinton Avenue
Trenton, NJ 08625

Submitted via email: EnergyEfficiency@bpu.nj.gov

April 13, 2020

Subject: Lime Energy Comments on 2020 "Straw Proposal for New Jersey's Energy Efficiency and Peak Reduction Program"

Dear Secretary Camacho:

On behalf Lime Energy (A Willdan Company), I am pleased to submit these comments in response to the New Jersey Board of Public Utilities ("BPU" or "Board") "Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs" (hereinafter, "Straw Proposal"). We would like to recognize the Board for being rigorous, transparent, and inclusive throughout the energy efficiency transition proceedings these last several months, and we appreciate this opportunity to comment on the Straw Proposal.

Lime Energy is a national leader in commercial energy efficiency delivery. Lime's home and leadership are based in Newark, New Jersey, and we specialize in delivering energy efficiency to the hardest to reach small business customers, which struggle to take advantage of energy saving opportunities. Our work in the State employs more than 1,000 New Jerseyans – directly or through subcontractors (but our business is currently shut down completely as a result of the COVID-19 health crisis). Lime Energy has performed energy efficiency retrofits in thousands of New Jersey businesses and government facilities since 2010. We operate energy efficiency programs in more than a dozen states. In neighboring states such as New York, we have been able to do far more to serve customers and grow the energy efficient economy, and therefore want to share our perspective from our varied experiences on the ground. Our comments below cover the Straw Proposal's discussion of working groups, program flexibility, marketing, utility metrics, and cost recovery.

Working Groups

Lime agrees with what we believe is the Board's intent for the Energy Efficiency Advisory Group (EEAG), Utility Working Group (UWG) and the other recommended working groups described in the Straw Proposal on pages 17 through 18. However, we believe that the EEAG should be a well-resourced central body that is expanded to include a wider variety of stakeholders, including individuals from both the energy efficiency business community and independent policy and ratemaking expert groups (e.g., ACEEE, RAP). In addition, except for the UWG, the other working groups described in the Straw Proposal should serve as subcommittees to the EEAG.

Program Flexibility

The program flexibility provisions described in the Straw Proposal, starting on page 26, are well thought out, with one exception. The document states that "Staff approval will be required for budget shifts up to 5% between sectors. Proposed budget shifts exceeding 10% between sectors will require Board approval. Budgets for Low-Income programs and Small Business programs will not be eligible for shifting between programs or sectors without Board approval." Budget shifts up to 10% should be left to the discretion of the utilities. Programs' performance ebbs and flows. If a utility is achieving a particular sector goal at a lower unit cost, they should be encouraged to invest excess funds into underserved customer programs such as those serving LMI and small businesses. Furthermore, it is not uncommon for larger commercial and industrial projects to be delayed or cancelled, leaving the utility at risk of being short of its goals; redirecting funds to smaller commercial customer projects, which can take place quickly, should always be a readily available option. Furthermore, for more substantial budget changes, if the Board does not approve a request to modify a budget within a short period of time (20 days), the request should automatically approved.

Marketing

The Straw Proposal's Marketing section starting on page 27 describes a joint marketing effort, which is appropriate. However, in a situation where the State, the utilities, their program administrators, and customer-facing contractors are all doing some level of marketing, there can be inadvertent excess spending along with customer confusion. Lime has found that, ultimately, the most effective messaging comes from the utility because they are the most visible to customers, and we find when Lime co-brands programs with the utilities, we get the best results. And any marketing should be data-driven and focused on customer outreach that achieves participation, so any statewide marketing efforts should be measured for effectiveness over time.

Metrics (and the definition of the small business segment)

The multi-factor approach for metrics defined on page 33 through 35 is well conceived. We are particularly appreciative of the identification of Small Business Lifetime Savings as one of them. The utilities and BPU will need to explicitly define the criteria for identifying a small business. We find that using the customer billing period each year with the highest peak electric demand for nonresidential customers tends to be best practice for establishing this criteria. We recommend defining small business as a 300-kW cut off based on the billing month of the year with the highest average kW. Many states use 100 kW as the cut off, but we find that there are relatively few nonresidential customers in the 100-300 kW range and they tend to be just as underserved by larger commercial and industrial programs as the broader group of very small (0-100 kW) customers.

Cost Recovery

In our experience, utility energy efficiency goals are reached only when utilities earn as much through serving customers with these programs as they do through selling traditional electricity and gas service. We recommend the following modifications to the currently proposed cost recovery structure.

The utilities' "Return on Equity" (ROE) for energy efficiency must be on equal footing with conventional utility services provided to customers**.** The proposal to set the ROE for energy efficiency at a level that is 100 basis points below the rate for traditional energy delivery simply sends the wrong message to the utility and the financial markets. Parity in earnings makes energy efficiency a meaningful priority for utilities, not simply a requirement that must be met. There also seems to be a belief that energy efficiency is less risky than conventional utility investments. The State and utilities will understand the risks of savings realization and persistence when rigorous Evaluation, Measurement & Verification protocols are in place. And until we as a state move towards modern digital metering infrastructure, we will not be able to systematically monitor the impact of energy efficiency on the grid and ratepayers.

Utility energy efficiency program costs should be amortized over a period of years consistent with the useful life of the investments made. The Straw Proposal proposes that program costs be amortized over 7 years, indicating that this approach "….will reduce the immediate rate impacts by spreading the cost of measures over a set period of time that better matches program costs with benefits." Lime disagrees with this assertion. Lifetime savings and useful life is a key metric throughout the Straw Proposal and amortization should be consistent with it. It will lower year-to-year rate impacts, spread the consumer costs over a longer period, and enable investment in deeper savings. Energy efficiency programs in which Lime participates have a program-level "Effective Useful Life" of 12 or more, which is backed up by observations from Lawrence Berkeley National Laboratory[1]

Full symmetrical decoupling advances energy efficiency policies and deters utilities from being purely driven by volumetric sales**.** Utilities are regulated monopolies focused on system reliability and, today, are dependent on energy sales to drive profitability. In recent years, the utility industry has come to realize that both they and their customers benefit greatly if their commercial success is linked to service excellence, satisfaction levels and providing value added services. Decoupling eliminates the emphasis on throughput as the prime mover for utility earnings while aligning their interests with the State's energy efficiency agenda. Under decoupling, customers will continue to pay for their service based on the amount of energy they consume – thus incented to use less – while the utility's commercial success can be driven by achievement toward desired policy outcomes such as a reliability, efficiency, or affordability. When combined with a return on equity that puts energy efficiency on equal footing with energy infrastructure investments (e.g., transformers, feeders and wires), decoupling utility revenue from sales will encourage full participation from all parties in New Jersey's clean energy future.

Eight of the ten states in the top ten of ACEEE's most recent state scorecard have, through decoupling, removed the disincentives utilities face to participate fully in energy efficiency

[1] Ian M. Hoffman, Steven R. Schiller, Annika Todd, Megan A. Billingsley, Charles A. Goldman, Lisa C. Schwartz, "Energy Savings Lifetimes and Persistence: Practices, Issues and Data" Lawrence Berkeley National Laboratory, May 2015.

programs. For New Jersey to catapult itself into the top ten of energy efficiency states, it should decouple utility profits from volumetric sales of electricity.

Getting the cost recovery structure right and building a strong framework for energy efficiency in New Jersey is more important now that it has ever been. Not only is energy efficiency a key part of the state's 100% clean energy initiative, but it is also a key driver of the state's economy. Energy efficiency is an extremely productive application of ratepayer funds and increasing investment in energy efficiency will benefit ratepayers statewide. In Lime Energy's experience working with small business customers through BPU and New Jersey utility programs, energy efficiency brings needed facility upgrades that help small businesses save money and thrive. Our work alone has contributed to more than $115 million of investment in small businesses and $18 million that small businesses save on their energy bills each year. Adopting the proper cost recovery structure through decoupling will bring these benefits to more customers in the decade to come and ensure that New Jerseyans realize the full benefit of the Clean Energy Act.

We appreciate your willingness to consider our perspective regarding these important matters impacting New Jersey's clean energy future. Please feel free to reach out to me at 646.522.4070 or lkass@lime-energy.com for further details.

Sincerely,

Lloyd Kass, MPA
Senior Vice President, Utility Strategy
Lime Energy

cc: Tejas Desai

MaGrann ASSOCIATES
Building Science for a Better Environment

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April 13, 2020

NJ Board of Public Utilities
Attn: Aida Camacho-Welch, Secretary of the Board
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Via email: EnergyEfficiency@bpu.nj.gov; kelly.mooij@bpu.nj.gov

Re: Energy Efficiency Transition Straw Proposal

Dear Secretary Camacho-Welch,

Thank you for this opportunity to provide comments on the updated and consolidated Energy Efficiency Transition Straw Proposal ("Straw"), released March 25, 2020.

MaGrann Associates is a small business energy engineering and consulting firm established in 1982 and based in Mt. Laurel, New Jersey. Throughout the life of New Jersey's Clean Energy Program, as well as preceding and current programs operated by New Jersey's electric and gas utilities, MaGrann Associates has provided energy audit, rating and modeling, engineering design, verification, certification, commissioning, monitoring, training and program implementation services for New Jersey's residential builders, developers, contractors, design professionals, building owners and managers.

The following comments relate primarily to those aspects of this final Straw that remain concerns for us as a market based implementer of energy efficiency services.

Recognition of the Process to Date

We would like to begin by acknowledging the time and effort that NJBPU staff and others have put into developing this transition plan. The last six months have been characterized by an unprecedented level of transparency and stakeholder engagement that is very much appreciated by those of us who are working every day to bring these programs and their benefits to New Jersey's households and businesses.

We also acknowledge that at this time of COVID-19 crisis, both Board and staff will have many competing priorities and we thank you for your efforts in keeping this process moving. As New Jersey begins to emerge from the constraints of business closures, social distancing and self-isolation, the cost reduction and health benefits of energy efficiency will become more important than ever.

Allocation of Programs Between State and Utilities

We appreciate the separation of energy codes from the residential new construction program. This more appropriately belongs with other codes and standards efforts as part of the separate State-Led Energy Codes and Standards Initiative.

We also support the shift of the Multifamily Sector – Existing Building Program from Co-managed to Utility Administered. However, we do not support the bifurcation of Multifamily into existing and new construction, allocated separately to the utilities and the state respectively. In fact this goes against the BPU's previously stated objective of aligning multifamily into a single unified approach (see below). We believe that both the new and existing multifamily markets belong under the utilities, since it is the utilities who have the relationship with the program customer in both cases – builders, developers and property owners – as well as with the end users (residents).

Similarly, we do not support the retention of Residential New Construction (RNC) under State Administered Core Programs. Our experience with this program dates back to its inception under the auspices of individual utilities through the 1990s, and under a statewide utility collaborative through the early 2000s. As demonstrated by that example in New Jersey, and by similar approaches currently operating in numerous other states, we believe that a consistent set of standards, together with a single administrative point of entry ("portal"), rebate processing and QA system, can be more effectively and efficiently implemented under a utility collaborative a structure.

While we strongly encourage the BPU to reconsider this proposal, if ultimately the Residential and Multifamily programs for new construction remain under state administration, we respectfully request that a number of weaknesses in the current state administered structure be addressed. The market share of the RNC program has fallen in the years since the BPU assumed control. Among the concerns we believe are the most significant in discouraging participation and impacting its success are:

- Unreasonably long turnaround times on incentive approval and payment as applications make their way through multiple administrator and Treasury mandated processes;
- Catch-22 hurdles such as mandatory Tax Clearance documentation that expires after six months, often just as incentives are being approved;
- An overly burdensome verification process that does not align participant effort and costs with energy impacts;
- Lack of participant and stakeholder insight into application statuses and other key information critical to effective project management;
- A complete absence of marketing support to drive both the supply *and* the demand sides of promoting efficient housing; and
- Inflexible, lengthy and often delayed timelines for adjustment of technical and administrative procedures in response to changes in market conditions, technologies, and applicable certification standards, including alignment with ENERGY STAR.

Market Confusion Regarding the Interim "One Multifamily" Initiative

While not addressed within the Straw, this issue appears to be an unintended consequence of the transition process:

Over the past two years the NJ Clean Energy Program has developed and prepared the market for a "unified" approach to the multifamily sector. This "One Multifamily" program would have introduced a number of significant changes to the previous administrative and incentive structures, as well as new

opportunities for participation. The latest timeline discussed at NJCEP meetings in 2019 indicated a roll-out at the start of this year, and the information still appearing on the NJCEP web site implies that the program structure is either already in place or "coming soon".

Our understanding is that the new multifamily structure is on hold pending resolution of the larger administrative transition. The BPU risks further market alienation if the mixed messages continue – please be clear about the status of the new program and continuation of the previous status quo in the meantime, including a commitment to ongoing consistency with the ENERGY STAR Multifamily New Construction certification paths.

Unintended Consequences of a 7-Year Amortization Period

We are concerned that the proposed 7-year amortization period may create an intrinsic bias toward programs and measures with short term paybacks. This seems counter-intuitive at a time when we need more than ever to move away from "cherry-picking" toward whole-building approaches. Deeper impact measures typically cost more and have longer term paybacks, but also have significantly longer measure life. These measures also have the potential to create a net positive cash flow for the building owner, especially when bundled into a comprehensive package of upgrades. Focusing on short term measures simply robs these properties of the opportunity to deploy a higher impact upgrade package with support from the program, which they almost certainly will not undertake without such support. Highly desirable measures that fall into this category include, for example, large central system boiler replacements and even property wide electrification in multifamily buildings.

Stakeholder Engagement in Working Groups

The Straw proposes a number of topic-specific Working Groups comprised of State and utility representatives. We very strongly suggest that such groups be expanded to include stakeholder participation by market based implementers actually engaged in delivering programs to customers "in the field". The composition of such groups could vary based on the specific topic or granularity of subject matter, but should be open to any party engaged directly in relevant program activities.

Specifically, we recommend *against* the approach mentioned by Commission past-President Jeanne Fox (in the April 1 online meeting) as an example to follow, at least not in its original format. The "Clean Energy Council", which we believe she was referencing, was a short-lived group of selected participants that was seen by many as creating winners and losers among stakeholders, and was effectively displaced by an open "Energy Efficiency Committee" monthly forum that allowed a broader diversity of representation and voices. At a minimum, any more narrowly constituted advisory group should have representation from industry based stakeholder coalitions rather than a limited number of individually selected companies.

Perhaps even more importantly, NJCEP administrators have from time to time convened stakeholder working groups to focus on program design and implementation issues specific to program areas such as multifamily or residential new construction. Although discontinued in 2019, we believe this level of stakeholder engagement is enormously beneficial, especially if coupled with sufficient flexibility for program administrators (whether under State or utility auspices) to adapt programs responsively to changing marketplace conditions or technologies.

Other Areas of Support/Concern

With respect to the overall Straw, we would also like to provide the following input:

1. Cost Recovery should be modified so utilities are encouraged to prioritize investment and spending on energy efficiency over pipes and wires, and not the reverse. This includes removing the 100-basis point penalty and adoption of full symmetrical decoupling as soon as possible.
2. QPIs and other measurement and evaluation components should be adjusted to ensure incentives are based on performance and that programs align with other state policy goals such as climate change, carbon reduction and equity.
3. Program design and verification should shift from narrowly focused administrative compliance toward more emphasis on driving outcomes that are aligned with these goals. Greater allowance for flexibility and innovation, while maintaining technical and quality standards, will promote deeper impacts more effectively than rebates and incentives alone, and better serve the markets most in need including Low & Moderate Income.
4. We strongly support the stated intention to develop a cost effectiveness metric consistent with the Resource Value Framework (National Standard Practice Manual). We believe the Societal Costs Test should be used to determine the cost effectiveness of program portfolios in the meantime.
5. Flexibility in program design needs to be clearer and should apply equally to all programs, with wider thresholds for adjustment of incentive levels and movement of funds between programs.
6. We encourage further integration of renewable energy with energy efficiency so that both can be optimized and incentivized for maximum savings of grid supplied energy and cost savings to customers.

Thank you again for this opportunity to provide input. Our team at MaGrann would be happy to provide any additional information that would be helpful in evaluation of these comments.

Sincerely,

Ben Adams
Vice President, Program Development

From:	Maryanne Ott
To:	energyefficiency
Subject:	[EXTERNAL] Energy Efficiency Transition Comments RE Full Straw Proposal
Date:	Monday, April 13, 2020 12:01:06 PM

April 10, 2020

New Jersey Board of Public Utilities

ATTENTION: Aida Camacho-Welch, Secretary

As a life-long environmentalist who has served on my community's environmental action committee, HUGE kudos to the BPU/Murphy Administration for putting New Jersey on a path towards 100% clean energy by 2050. This leadership and bold action are long overdue as global climate change threatens every aspect of our way of life.

As the state moves to finalize different aspects of the plan, it must do everything possible to ensure full buy in and participation from residents and businesses. Otherwise, these efforts will be fruitless, and we'll continue to harm our planet.

The truth is buy-in can only happen if the economics work—meaning the costs of the environmental efficiency programs cannot outweigh the environmental benefits. The state should do everything possible to mitigate the costs associated with implementation. Stretching out the financing timeline for utilities for these energy efficiency programs is one way to make it happen.

Environmental goals that aren't practical will do nothing to move the needle.

Sincerely,

Maryanne Ott

1046 Estates Blvd.

Hamilton NJ 08690

New Jersey Board of Public Utilities
Comments to Final Straw Proposal

Dear Ms. Camacho-Welch,

As a board member of Monmouth Conservation Foundation, and President of a Statewide Millennial organization, I believe climate change is the greatest threat to our country's economy, health, and safety. I applaud the BPU for working quickly to make energy efficiency a priority for the residents of NJ. But if this is not done correctly, then we will be taking steps backwards instead of forward.

The Straw Proposal is missing several elements that will make energy efficiency more effective. For example, a full decoupling will ensure we create the right framework for energy efficient investments and incentive the energy companies to aggressively promote energy saving programs.

In addition, the Proposal should spread the financing of the transition plan over a longer period of time to decrease the financial burden on NJ residents.

Nothing is more important than combating climate change, but it will only work if we take the correct steps to incentive the energy companies and decrease the financial burden on our residents.

Thank you for the consideration,

Matthew Anderson

From: djordan@mckinzyconsultantservices.com
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition - Full Straw Proposal
Date: Monday, April 13, 2020 4:41:52 PM

April 13, 2020

NJBPU
Post Office Box 350
Trenton, New Jersey 08625-0350

Dear Members of the Board,

As a lifelong advocate for the State's underserved communities, I write to register my misgivings concerning the NJBPU's Energy Savings Final Straw Proposal.

The plan, as proposed, is not inclusive of all New Jersey communities. It needs to remove barriers (coupling) so that utilities are completely incentivized to work with all residents on energy efficiency and create jobs in low- and moderate-income communities, not just the most affluent.

These families also bear the brunt of rising energy costs, spending disproportionately high amounts on their energy bills. That is why BPU needs to spread this transition out over a longer period of time to greatly lessen its economic burden on "all" consumers.

As New Jersey moves to a new energy paradigm, I hope the final energy efficiency plan will provide benefits that are accessible to all New Jersey residents. Thank you for your consideration.

Sincerely,

Darius Jordan, President

McKinzy Consultant Services

To Whom it May Concern:

As a New Jersey small business owner of 2 different companies, including the real estate agency, “The Willow House, LLC”, I am writing to urge the BPU to invest in energy efficiency. We need to create a framework where investments in energy efficiency can really succeed, which is lacking in the current Straw Proposal.

My business partners and I are concerned that the Straw Proposal for New Jersey’s energy efficiency transition plan does not include a long enough period of time to finance these investments in energy efficiency. If we do not lengthen this timeline, it’ll be harder to ensure a smooth transition. This means small businesses like mine could end up feeling intense economic strain.

I also want to strongly encourage the BPU to include decoupling in the Straw Proposal. This would allow our utilities to fully invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas. Full decoupling would also encourage New Jersey residents cut down on their energy usage and save money; that’s good for our state and our environment.

Sincerely,

Geoffrey Borshof

Founder/Owner
The Willow House, LLC
16 North Willow Street
Montclair, NJ 07042

From: njahhp@gmail.com
To: energyefficiency
Subject: [EXTERNAL] Energy Efficiency Transition - Full Straw Proposal
Date: Thursday, April 9, 2020 3:41:02 PM
Attachments: image001.png
image003.png
image005.png

New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350, Trenton,
New Jersey 08625-0350, Attn: Aida Camacho-Welch,

Re: Comments to Final Straw Proposal

Dear Ms. Camacho-Welch:

As executive director of the New Jersey Hearing Health Association, the impacts of climate change on the health and wellbeing of New Jerseyans is an ongoing concern. That is why I'm grateful for the state's leadership in making energy efficiency a priority for state residents. It is critical, however, that the framework for energy efficiency include the right investments to effectively combat climate change and the health threats it presents. I'm concerned the current Straw Proposal falls short of this goal.

To get all residents and utilities on board to fully invest in energy efficiency, the Straw Proposal should spread out the financing of the energy transition plan over 15 years rather than 7 years as proposed. A longer time period would help lessen the economic burden on the state's residents, critically important for low-income households where utilities commonly eat up as much as 10% of their income. By spreading the costs over 15 years, the state can ensure that all customers who benefit from the energy efficiency programs also contribute to them, as well as achieve the highest correlation of cost recovery to benefits.

Moreover, a full decoupling should be prioritized. This would incentivize utilities to invest in energy efficiency programs without worrying about their bottom line. With more aggressive energy efficiency programs, New Jerseyans can cut back on their energy usage, save money on their bills, and ultimately begin to see the health benefits of a cleaner environment.

This is a pivotal time in our state, and we must get it right the first time to protect the health of New Jersey residents! Thank you for your consideration.

Karla Pollack
Executive Director
New Jersey Association of Hearing Health
132 West State Street, Trenton, NJ 08608
njahhp@gmail.com | www.njahhp.com

New Jersey Association of Hearing Health Professionals

New Jersey Black Issues Convention

P.O. Box 1843
Newark, NJ 07101
973-824-7463
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As Chair of the New Jersey Black Issues Convention I write to you today out of concern that the BPU's Energy Efficiency Straw proposal doesn't go far enough to ensure that low- and moderate-income households are not left behind when it comes to realizing the benefits of energy efficiency. As the energy landscape transforms — and as advanced technologies become part of the new energy economy— we must avoid further increasing the **ENERGY DIVIDE**— defined as low-income families paying more in energy costs due to their inability to afford efficient and cleaner energy-related services.

The goals of the Board's Straw Proposal are ambitious, but for the proposed policy to result in tangible benefit within low-income and moderate-income communities, significant investments will be required. Low-income communities are not monolithic, and multiple strategies will be required to effectuate outreach, follow-up, implementation, and success related to energy efficiency programming. These programs must include owners of single-family homes, and renters as well.

I would like to highlight two (2) specific areas where the Energy Efficiency Straw Proposal falls short on its goal of ensuring that all New Jersayans benefit from Energy Efficiency programs.

Amortization Period – To avoid rate increases, the proposal must extend amortization over the life of the investments. The proposed 7year amortization period will cause bills to peak earlier in the program, reducing the benefits generated. Being sensitive to customer bills is more important than ever, therefore every effort must be taken to bring and keep utility bills down.

Clean Energy Job Creation – I also urge the Board to genuinely connect these investments to jobs and contracting opportunities that target low-income communities. The current proposal does not seem to recognize the importance of the Energy Efficiency program's job creation potential. 2.38 million people were employed in energy efficiency jobs in 2019, and during that year, 54,000 new jobs were created. The opportunity to leverage Energy Efficiency programs that help reduce consumption while creating good-paying clean energy job is one that cannot be missed.

I strongly encourage the BPU to address the concerns raised in this letter before approving the Energy Efficiency Straw Proposal if you are truly committed to providing low- and moderate-income households access to all the benefits Energy Efficient programs have to offer. I look forward to a continued dialogue regarding this proposal.

Reva Foster

April 14, 2020

Joseph L. Fiordaliso, President
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Mr. Fiordaliso,

Nexant thanks the New Jersey Board of Public Utilities for releasing its March 20, 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs for review. We are pleased to be able to provide comments.

Cost Amortization

In Nexant's experience, removing barriers to participation and creating the appropriate structure is important to program success. Most of the programs we run support the commercial and industrial sector with a strong focus on comprehensive measures. The longer the average measure life, the more comprehensive the projects can be. We encourage the Board of Public Utilities to consider adjusting the amortization period to align with the weighted Effective Useful Life. This would be both more conservative, and more consistent with other public good projects that often amortize costs over the life of 15-30 year bonds.

Return on Equity

Like many of our colleagues, Nexant supports the removal of barriers to programs and supports all approaches that align the interests of the utilities with the transformational and modernization goals of the state. When looking at cost recovery, we recognize that the Board of Public Utilities is attempting to create an environment with genuine upside for the utilities by offering performance incentives. Unfortunately, in also appropriately considering penalties, for the purposes of risk planning the value to shareholders from incentives is not something that can be relied upon and does not create a planning benefit. Consequently, ROE needs to be considered on its own relative to the Utilities other business. It is for this reason that a decrease in ROE by any amount appears to be punitive. In order to make Energy Efficiency and Peak Demand Reduction Programs attractive compared to investment alternatives, the ROEs for the programs must be at least on par with other investments.

Cost Effectiveness

While Nexant agrees with the input from others regarding the Societal Cost Test being the most comprehensive assessment of the contributions from Energy Efficiency and Peak Demand Reduction Programs, we also recognize the costs and significant effort associated with aligning on definitions and approaches to monetize all of the benefits. As a result, Nexant recommends that the Board of Public Utilities consider an alternative that many other jurisdictions have settled upon – a "modified TRC." This approach allows the Board of Public Utilities to define which benefits should be included in the calculation and establish values – or clear and transparent processes for calculating those values - that are of most interest to, and most align with the priorities of New Jersey.

Nexant offers best-in-class energy consulting and implementation services that transform utility business processes and improve smart grid, clean energy, distributed energy resources, and customer experience initiatives. Nexant experts help utilities embrace a customer-centric strategic planning model that aligns markets, products, technology and customer strategies, reducing risk to achieve superior business results. Nexant's clients include over 200 utility and software services customers and works with over 300 chemical and petroleum majors, financial institutions, and Fortune 500 companies. Find out more at www.nexant.com.

Thank you for the opportunity to provide this feedback. We look forward to supporting the tremendous clean energy goals in the state of New Jersey.

Sincerely,

Sam Mueller
Senior Vice President, Client Solutions
Nexant

From: Nick Mellis
To: energyefficiency
Subject: [EXTERNAL]
Date: Monday, April 13, 2020 4:05:37 PM

Dear Ms. Camacho-Welch:

The State's Energy Master Plan provides an opportunity for the state to finally make meaningful progress toward transforming our economy to one that is carbon-free, sustainable and fueled by well-paying jobs that can lift communities out of poverty. As the proud manager of the Mercer County Green Party (as well as the Green Party of Trenton and Lawrence townships), I respectfully ask the BPU to ensure the implementing framework includes all the elements required to make it happen.

First and foremost, the state must make underserved communities a priority in the implementation of energy efficiency programs. For far too long, these communities have been left behind when it comes to reaping the benefits of these programs—particularly shameful considering low-income households pay more per square foot to heat and power their homes, with utility bills costing as much as 10% of their income. Giving utilities longer to finance the implementation of these programs would help lessen the cost impact on these families so that more can take advantage and finally achieve bill savings.

Moreover, the BPU must ensure that the economic benefits of energy efficiency flow to vulnerable communities and workers through efforts such as quality job-training programs and purposeful spending with urban- and small-businesses. Meaningful carbon reduction will only be achieved through meaningful participation by all communities and businesses of all sizes.

This is a pivotal time in our state. Inclusive, swift action is needed now.

Thank you,

Nick Mellis

--
Nick
Phone: 609.393.4349
Text Free # for IPAD & Chrome Laptop = 609.701.2420

Mobile: 609.393.4349

From: aprilsette@gmail.com
To: energyefficiency
Subject: [EXTERNAL] Aida Camacho-Welch, BPU Secretary
Date: Thursday, April 9, 2020 3:55:40 PM

Attn: Aida Camacho-Welch, BPU Secretary

As President of New Jersey Buzz, a hyper-local streaming TV and Social Media Show and provide marketing and Public Relation services to local business in New Jersey, I have the privilege of meeting residents and community leaders at events we feature throughout the Garden State and listening to what's on their minds. One issue of concern that often comes up is the threat of climate change, which is why I applaud the BPU for making energy efficiency an immediate priority. However, I am concerned the current Straw Proposal fails to include important elements that will ensure energy efficiency is an effective tool in combatting this global environmental threat.

First, the length of time for financing of the energy transition plan should be stretched over a longer period to lessen the economic burden on our residents as much as possible. Fifteen years is a more realistic time frame and would make for a smoother transition with all residents and utilities on board.

Second, a full decoupling would help create the optimal framework for energy efficiency investments. It would remove the disincentive for energy companies to promote energy efficiency programs.

With the right approach to energy efficiency, New Jersey has the opportunity to be at the forefront of climate change. I'm excited to see it happen!

April Sette
Queen of Buzz
(609) 516-9306

Be The Change You Wish To
See In The World. Mohandas Ghandi

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April 13, 2020

RE: New Jersey Energy Efficiency Transition – Full Straw Proposal

VIA ELECTRONIC FILING
Enervee Comments:

Enervee appreciates the opportunity to provide comments on the New Jersey Energy Efficiency Transition - Full Straw Proposal. Our comments will focus on the Energy Efficiency Products Marketplace aspect of the proposal, and ways to remove market barriers required to achieve the State's Clean Energy Act-required energy goals. Enervee has deployed data-driven, customer facing, choice-engine based marketplaces on behalf of utility clients that serve over 21% of all residential electric customers (24 million) and 5.7 million gas only customers nationally. These sites empower consumers to make better energy-related buying decisions, spanning efficient products, solar and electric vehicles.

Overview

Enervee recommends that the State expeditiously adopt marketplace principles, guidance and implementation requirements, with a view to rolling out a decentralized Energy Efficiency Products Marketplace by the end of 2020. These principles should reflect marketplace best practices, and include functionality that provides consumers with the broadest range of product choice while driving consumers toward the purchase of the most energy efficient products in each category.

Enervee's comments focus on two key issues with respect to the planned Energy Efficiency Products Marketplace:

- **Importance of going beyond direct-sale marketplaces to transform markets**
- **Advantages of a decentralized marketplace model**

Beyond the Direct-Sale Marketplace Model:

As New Jersey contemplates its marketplace principles and guidelines, it's helpful to have a clear understanding of the two basic types of utility marketplaces, which E Source has defined as "direct sale" and "decision-based" marketplaces[1]:

Direct-sale marketplace - This is the most common utility marketplace model, already deployed by a number of utilities in NJ. These platforms allow utilities to select a limited number of products to stock, promote, and sell (typically light bulbs and thermostats.) Customers can browse the products, purchase them on the site, and receive an instant rebate or discount which can be tracked (according to E Source, utilities typically discount measures 5% to 20%).

Decision-based marketplace - In this model, the utility or vendor doesn't stock, ship or sell any products. Instead, it sends the customer to brick-and-mortar or online retailers to purchase goods. In decision-based marketplaces, the utility is an energy adviser, giving customers information about a variety of products and helping them compare retail prices, operating costs, and energy efficiency. This model encourages customers to purchase the most energy-efficient products such as lighting equipment, electronics, appliances, and vehicles. These marketplaces influence purchases with or without utility incentives; the platform can easily integrate instant discounts and drive segmented downstream rebate participation.

Many utilities in New Jersey already provide their customers with direct-sale marketplaces. The State of New jersey now has the opportunity to ensure that – on a statewide basis – utilities go beyond the direct-sale approach (which has mainly been successful as a delivery channel for smart thermostat and LED light bulb incentives) and deploy state-of-the-art choice engine technology to drive consumers to make the most efficient purchases and eliminate barriers and transform consumer product markets at scale. Hybrid models that combine various elements of these two can also be considered.

[1] Source: Fitzjarrald, B., 2019, *Is an online marketplace right for you?* Boulder, CO: E Source. (https://www.esource.com/129191fjri/online-marketplace-right-you)

Decision-based marketplaces that rely on choice engine technology can help New Jersey achieve its clean energy ambitions, while delivering real consumer value:

• Partner with retailers to create an efficient shopping ecosystem
Partnerships with all major retailers create an efficient product ecosystem - provides potential economic stimulus for the local NJ retailer network - driven by a broad product offering including 26 product categories, featuring 10,000 unique products.

• Commitment to consumer choice
Consumers are empowered to make energy smart buying decisions from the retailer of their choice, whether they choose to shop online or in-store, and are assured that they will always be presented with the best price across all retailers.

• Barrier elimination leads to favorable cost metrics
Choice engine technology is proven to result in more efficient choices, even without incentives, because it is designed to eliminate market and psychological barriers. Independent impact assessments have documented favorable cost metrics for decision-based marketplaces (on a gross first-year basis): $0.08/kWh, $2.28/therm[2]. This leads to savings at under $0.01/lifetime kWh.

• Untapped plug load opportunities
Unique ability to address the large and growing plug load end uses that do not lend themselves to traditional efficiency program strategies.

• Opportunity to expand low-income programming
Choice engine platforms present an opportunity to modernize LMI programming, by introducing a retail product channel to complement traditional direct-install approaches.

• Access to consumer product market data
Choice engine technology relies on real-time market data on product efficiency, retail price that can be used to support policy and other programs.

• Energy education resource
A data-driven platform is an invaluable resource to support public education on topics such as how to shop for the most efficient products, how product efficiency impacts energy bills, why it is important to take into account the total cost of ownership (and not just the up-front purchase price), and how much product prices vary on a daily basis. The interactive platform presents an easy way to introduce experiential learning into energy efficiency decision making.

[2] Con Edison Marketplace 2019 Q4 Quarterly Progress Report & Project Closeout Report (January 2020). http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={2DBFFC60-2403-4D1D-9F4D-9B0B3FE9AC34}

Advantages of a Decentralized Statewide Marketplace Model:

Based on our experiences in other jurisdictions, from California to New York, Enervee believes that a decentralized statewide marketplace model, operating under guidelines provided by the State, offers important advantages over a single statewide platform:

- Ability to offer state-of-the art customer experiences, segmentation and marketing
- Separation of oversight and management functions
- Utility accountability and control over outcomes
- Administrative efficiency

State guidance should not be overly prescriptive, but should ensure that the platforms to be procured by utilities meet the expectations of the State with respect to scope, basic functionality and harmonization of processes and requirements, such as for customer validation.

The Straw Proposal calls for a single co-managed statewide Energy Efficiency Products Marketplace, with a view to facilitating access, reducing market confusion and allowing the State to maintain a strong oversight role. Based on our experience, we believe these goals can be achieved with a statewide approach that relies on each utility having their own local deployments – and that this decentralized model will have a number of additional important advantages over a single statewide platform:

- **Separation of oversight and management functions** – It is not clear how well the State can exercise a strong oversight role, if the State itself procures and co-manages a single statewide marketplace on a day-to-day basis. On the flip side, if the utilities operate local instances under statewide guidelines, the State can exercise its independent oversight function.

- **Administrative efficiency** – Co-management introduces a degree of complexity that is difficult to anticipate with the available information, and the State likely does not have the capacity to devote the necessary resources to program management, without slowing down the process. Generally, all roles and responsibilities will need to be negotiated and codified and this is likely to be a protracted process.

Taking marketing efforts as an example, considering branding, sign-off and day-to-day management of marketing campaigns illustrates the types of issues that can be expected to arise and which would bog down deployment and hurt performance. When a vendor works with a utility, site branding is simple to configure prior to launch, there is one point-of-contact to get approvals for marketing materials and an ongoing dialog on marketing campaign performance and utility goals can be maintained to optimize the program on an ongoing basis. With a government entity involved and a single statewide co-branded platform, co-branding arrangements between the government and all of the utilities need to be worked out, even before implementation can begin. On an operations level,

how will marketing budgets be decided? After launch, who has the authority to sign off on marketing strategies/collateral (which implicate the State and all IOUs)? These are just some of the areas of friction that we anticipate.

- **Seamless integration** - Fully integrate marketplace offering into the full palette of utility program offerings. Most statewide efficiency programs have a limited scope and are not integrated into utility customer data systems – and a single statewide marketplace would be no exception. This means that state-of-the art customer experiences, segmentation and marketing will be complex/costly to enable, if possible at all. Single sign-on, providing default electricity rates in bill savings estimates and the ability to leverage the online behaviors of customers for marketing segmentation or personalization purposes are examples of best practices that would be challenging, if not impossible to offer. At a minimum, additional product development costs can be expected.

- **Ability to effectively leverage the utility brand as a trusted energy advisor** - The utility brand is typically more powerful than a statewide program brand, because customers have a contractual relationship with their energy provider and trust their utility to provide objective expert advice on energy issues. This is true even in jurisdictions with retail competition, such as Texas. Co-branding poses the risk of diluting the value of the utility brand to engage customers. By definition, a single statewide marketplace will either be solely State-branded or co-branded by a mix of utilities. In either case, the utility brand will be diluted, relative to a decentralized model under which each utility has its own branded marketplace.

- **Utility accountability and control over outcomes** – The Straw Proposal does not mention what the funding source for the statewide marketplace will be. Unless a separate budget is provided outside of utility budgets and obligations, utilities are on the hook to deliver cost-effective outcomes across the entire portfolio and need to have the flexibility to operate and adjust their programs accordingly.

The type of decentralized approach Enervee recommends here has been adopted by the regulator in California. Under this model, the California Public Utilities Commission mandated all IOUs to provide their customers with online utility marketplaces by a specified deadline and provided guidance on minimum features and functionality that each site must offer, while also offering some incentive guidance. The four IOU marketplaces have driven significant engagement and customer satisfaction and have proven successful in practice. According to the 2019 California Energy Efficiency Action Plan:

"Marketplaces that provide consumers with energy efficiency scores for appliances, most prominently those supported by the IOUs, have a track record of success. Continuous support and expansion of such programs will result in more achievable savings from the growing plug-load demand." [3]

[3] 2019 California Energy Efficiency Action Plan: https://efiling.energy.ca.gov/GetDocument.aspx?tn=231261&DocumentContentId=62916

This Action Plan also pointed out that the IOU marketplaces can support collaboration between utilities and government agencies, such as to "add more incentives and information for products that benefit low-income households". The marketplaces could advance energy equity goals by providing a direct-to-consumer channel for State agency incentives, which would "enhance consumer choice and flexibility, improve program effectiveness and lower costs".

Conclusion

With hundreds of millions of energy-using products bought annually (including roughly 25 million in NJ alone), decision-based marketplaces are delivering massive, cost-effective savings. Every purchase of a product that isn't the most efficient in-class is a lost opportunity for the state and consumers alike. The industry has taken note of this innovative market-based approach. The California Public Utilities Commission has mandated all IOUs in the state to provide their customers with online marketplaces, and the Association of Energy Service Professionals singled out one of Enervee's choice engine platforms to receive its prestigious 2019 Outstanding Achievement Award for Residential Program Design & Implementation, because of its ability to nudge shoppers towards more efficient purchases, without monetary incentives. Further, the choice engine marketplace efficacy was proven in New York in the recently completed Con-Ed Rev Demo[2]: "The Con Edison Marketplace has met the REV goals, including empowering customers to make more informed energy choices, developing new partnerships, unlocking new revenue streams and achieving energy savings targets set for the Project. As a result of this success, the Con Edison Marketplace has transitioned to an ongoing program within the energy efficiency portfolio beginning January 1, 2020."

Enervee appreciates the opportunity to provide these comments and looks forward to working with all New Jersey stakeholders in developing New Jersey marketplace implementation as part of the overall energy efficiency transition plan.

Sincerely,

Jon Gordon, Director Regulatory Affairs
Jon@Enervee.com
860.462.9158

April 13, 2020

Via Electronic Mail (EnergyEfficiency@bpu.nj.gov)

Secretary of the Board of Public Utilities
Attn: Aida Camacho-Welch
44 South Clinton Avenue 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: Comments for Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs

Dear Ms. Camacho-Welch,

On behalf of the Sierra Club and its over 20,000 New Jersey members, we submit the following comments on the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs. Our evaluation of the document focused on the ability of the programs to fulfill the objectives of the Clean Energy Act of 2018 (CEA or the Act) consistent with the NJ Energy Master Plan (NJ EMP) program. As an environmental organization, our comments focus on the Act's calls for "a significant overhaul of New Jersey's energy systems" as it pertains to building sustainable infrastructure, and reducing carbon emissions.

Build Sustainable Infrastructure

The Board of Public Utilities assists New Jersey communities, commercial and industrial energy users manage electric service costs to become more energy efficient, reduce their carbon footprint and reduce costs associated with energy. The NJ EMP clean energy goals call for electrification of our buildings and transportation system which will dramatically increase the demand for electric service. Now is the time to initiate an expansion of Energy Efficiency and Peak Demand Programs to address managing electric services for microgrids and electric vehicle charging stations.

1. Microgrids

The New Jersey Board of Public Utilities (NJBPU) initiated the Town Center Distributed Energy Resources (TCDER) Microgrid Program after Superstorm Sandy. The focus is on resiliency in the event grid services are disconnected. The NJ EMP envisions off-shore wind, nuclear, and distributed energy sources such as solar and energy storage to replace fossil fuel

generating plants and satisfying the increasing demand of electrifying buildings and transportation systems. This will require formation of microgrids across the State. The proliferation of microgrids is an opportunity to execute a smooth transition to the Clean Energy Grid resulting in cost savings to customers, a reduction in emissions, and more control by consumers and grid operators to improve reliability and resiliency.

The Distributed Energy Resources (DER) Microgrid Program could be patterned similar to the TCDER Microgrid Program. The program should include town centers (communities), commercial centers, and industrial clusters. The program defines microgrid as a small network of electricity users with a local source of supply (renewable and energy storage) that is usually attached to a centralized national grid but is able to function independently.

2. Electric Vehicle Charging Stations

New Jersey is providing significant incentives for deployment of Electric Vehicles. As the density of electric vehicles increases, commercial centers and places of employment will be equipping their facilities with charging stations. NJBPU has an opportunity to develop programs to encourage appropriate time of use charging and Vehicle to Grid incentives as part of its Peak Demand Reduction Program for Commercial and Industry clients and Residential clients.

Expansion of on-line retailing and increased cargo handling at our ports and airports is driving construction demand of warehouses and distribution centers serviced by diesel trucks. Industry trends project diesel trucks will be replaced by electric trucks. A focus on Energy Efficiency and Peak Demand Reduction Program to support warehouse electric charging stations will benefit NJ communities by reducing pollutant levels.

3. Energy Storage

The Clean Energy Act codifies the Governor's goal of achieving 600 MW of energy storage by 2021 and 2,000 MW by 2030. It is key pillar of the NJ EMP. For industrial and commercial users who participate in Demand Response, energy storage provides the ability to economically maintain operations in times of peak demand. NJ BPU should establish and Energy Storage Program to enhance behind the meter energy efficiency through on-site energy storage. The Microgrid Program should integrate grid scale energy storage as well as behind the meter energy storage.

Reduce Carbon Emissions

Energy Efficiency and Peak Demand Reduction play a significant role to reduce carbon emissions. To comply with the Global Warming Response Act (GWRA) goal of reducing state greenhouse gas emissions 80% below 2006 levels by 2050, the NJBPU Energy Efficiency and Peak Demand Reduction Program should promote renewables and replace fossil fuel technology.

1. Combined Heat & Power and Fuel Cell Program

NJCEP should discontinue this program since it proliferates the use of fossil fuels and extreme polluting technologies.

2. Residential Heating and Cooling Program

NJBPU should establish a program for existing homes and construction of new residential units to substitute oil and natural gas systems with energy efficient electric heating and cooling systems including geothermal or electric heating/cooling transfer systems.

3. Clean Energy Manufacturing Program

New Jersey's industrial sector relies on a plethora of oil and gas products to manufacture products. There exists plenty of industry-created technology and roadmaps for "Clean Energy Manufacturing" to reduce reliance on fossil fuel. NJBPU should create a Clean Energy Manufacturing Program to encourage early adoption of these techniques.

4. Multifamily Energy Efficiency Programs Are Sorely Needed

Efficiency programs for multifamily units are extremely important. Multifamily housing makes up a significant fraction of all housing in New Jersey, and as a result lacking a program to secure energy efficiency gains from such housing will mean fewer efficiency gains for the state as a whole. Similarly, multifamily housing presents unique opportunities for efficiency gains. Since multifamily housing units are typically maintained by a different entity than the residents who actually pay the utility bills, there is a mismatch of incentives that cuts against efficiency upgrades for those housing units. Multifamily housing programs are thus critical to achieve highly economic efficiency gains that are otherwise blocked by that incentive mismatch.

The third of New Jersey's residents who live in rental housing deserve the benefit of energy efficiency programs. Multifamily efficiency programs are also critical for addressing important equity and environmental justice concerns. Multifamily housing units tend to be occupied by residents of lower incomes more so than does single-family housing; such residents also spend a significantly higher proportion of their overall income on energy. Thus, in addition to the benefits that flow from reductions in aggregate energy demand due to efficiency efforts, multifamily efficiency programs also help ameliorate the energy burden for some of the New Jersey residents who feel that burden most keenly.

If you have any questions, or if there is any additional information I can provide, please feel free to call me at (609) 558-9100.

Sincerely,

_____/s/_____
Jeff Tittel
Director of the New Jersey Sierra Club

NewJersey Builders Association
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Carol Ann Short, Esq. — Chief Executive Officer
Jeff Kolakowski — Chief Operating Officer
Grant Lucking — VP of Environmental Affairs
Kyle Holder — Dir. of Legislative Affairs

April 13, 2020

VIA Electronic Mail
Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
9th Floor, Post Office Box 350
Trenton, New Jersey 08625-0350
EnergyEfficiency@bpu.nj.gov

Re: Energy Efficiency Transition - Full Straw Proposal

Dear Secretary Camacho-Welch,

The New Jersey Builders Association (NJBA) submits the following comments regarding the Energy Efficiency Transition Program Administration Straw Proposal Draft issued on March 20, 2020.

The Board of Public Utilities (BPU) held a Public Stakeholder Meeting to discuss the New Jersey Energy Efficiency Transition on Wednesday October 30, 2019. Per BPU request for comments, NJBA submitted comments on November 6, 2019 on specifics for program implementation. On January 17, 2020 NJBA resubmitted its comments for consideration in the Full Straw Proposal. NJBA stands by its previous comments and appreciates the Board of Public Utility (BPU)'s efforts for continuity in current programs, consistency across various territories, and flexibility in choosing partner organizations.

NJBA supports statewide incentives to encourage energy efficiency in homebuilding, and NJ Clean Energy Program (NJCEP) energy incentives should be attractive to developers and designed to reduce costs. Since changes in the utility industry continuously result in a state of uncertainty regarding the delivery of quality services by the various utilities, it is imperative that the building industry be served with consistent incentives, eligibility criteria and rules across all service territories.

A significant amount of planning goes into every development project, and BPU should recognize that existing NJCEP incentives contribute to the safe production and execution of many projects around the State. Future programs and changes to existing programs should contain a level of continuity to decrease any potential disruption. NJBA supports an efficient program design that promotes reliability, uninterrupted service and affordability to all New Jersey residents.

Developers currently have access to an open market of qualified partner organizations for energy efficiency programs in new construction; BPU must continue to offer developers the ability to access an open market to maintain relationships. These relationships stimulate business and ultimately encourage growth and participation in energy efficiency programs. The competition among the various partner organizations keeps costs down for builders resulting in an increased likelihood for participation.

NJBA recognizes that these comments have been considered in the previous straw proposals and respectfully requests that these measures remain throughout the process. In addition to NJBA's previously submitted comments, it recommends the Board consider participation from NJBA on the following groups that are proposed in the Full Straw Proposal: Multifamily Working Group & New Jersey Energy Codes review panel.

- NJBA and its affiliate, the Mixed-Use Developers (MXD), represent the interests of the developers and associated businesses involved in the construction of multi-family housing, retail and office space to form a single advocacy voice for policies and regulations that affect mixed-use development. The experience and expertise of NJBA & MXD will provide tremendous value to the Multifamily Working Group. Members provide a wide array of diverse housing choices to individuals of all income levels in both suburban and urban environments and are helping to meet the growing demand for vibrant downtowns which support our state's economic growth.
- Likewise, NJBA, as the leading trade association for the construction industry, it is appropriately situated to assist the Board's goal to identify opportunities for greater energy efficiency. The residential construction industry is no stranger to energy efficiency and green building techniques. Through the National Association of Home Builders (NAHB), NJBA's national affiliate, NJBA participates in the development of the national model codes by the non-profit International Code Council (ICC) and to establish the National Green Building Standard. As the proposed NJ Energy Codes review panel seeks to quantify energy savings associated with various energy codes, NJBA members will be able to provide expertise in code development and the perspective from the companies who implement the code in buildings.

NJBA looks forward to continuing work with BPU and various stakeholders to create statewide energy efficiency programs to reduce the State's energy consumption and address the harmful effects of climate change.

Sincerely,

Kyle Holder
Director of Legislative Affairs

NJCLPM
NEW JERSEY COALITION OF LATINO PASTORS AND MINISTERS

Monday, April 13, 2020

RE: Energy Efficiency Stakeholder Meeting-Updated with Meeting

ATTENTION BOARD OF PUBLIC UTILITIES:

As faith leaders serving New Jersey's Latino community, we have closely monitored the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs. Please know that the New Jersey Coalition of Latino Pastors and Ministers is over 400 members strong across the state representing over 38,000 congregants and is committed to using our collective power to betters the lives of our communities and work with on this clean energy initiative.

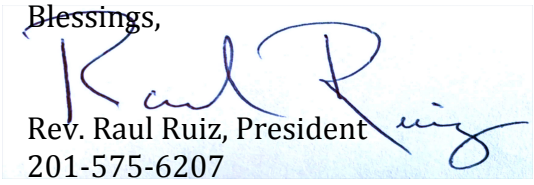
We support and commend the board for its far-sighted effort to ensure that proposed efforts directly target low-income families and individuals of our state. However, we ask that you ensure that your actions help, and not harm those we serve.

Any rate increase on low-income consumers would hurt. Energy efficiency savings achieved through investment in low-income communities would be negated if rates were increased. It is essential that the board make the necessary investments. And as clergy and your partners in this process, we would advocate that the targets be higher, that utilities exceed what the plan requires.

To keep investments affordable for utilities, and to ensure low-income customers receive the greatest benefits from energy efficiency while avoiding rate increases— and to ensure we connect investments to supplier diversity and jobs targeting low-income communities— utilities must be able to amortize their cost over 15 years.

In closing, we welcome the opportunity to host information sharing virtual meetings and any educational materials. Also, recommend to working with the Hispanic local media to disseminate information and engage the Latino community.

Blessings,



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PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

STEFANIE A. BRAND
Director

April 15, 2020

VIA ELECTRONIC MAIL
Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: Rate Counsel's Comments on the Board of Public Utilities' Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs
BPU Docket No.: Undocketed Matter

Dear Secretary Camacho-Welch:

Please accept for filing the enclosed comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in response to the Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs ("the Straw Proposal"), circulated by the Staff of the Board of Public Utilities for comment on March 20, 2020 with a corresponding Public Notice which was updated on March 25, 2020 noticing stakeholders of a public webinar to address the Straw Proposal on April 1, 2020. Rate Counsel reserves its right to supplement these comments as the stakeholder process continues. In accordance with the Notice, an electronic copy will be emailed to EnergyEfficiency@bpu.nj.gov.

Please acknowledge receipt of these comments.

Thank you for your consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

By: */s/ Kurt S. Lewandowski*
Kurt S. Lewandowski, Esq.
Assistant Deputy Rate Counsel

Enclosure

cc: EnergyEfficiency@bpu.nj.gov
Paul E. Flanagan, BPU
Sara Bluhm, BPU
Kelly Mooij, BPU
Stacy Peterson, BPU
Benjamin Witherell, BPU
Abe Silverman, BPU
Pamela Owen, ASC, DAG

Clean Energy Act
New Jersey Energy Efficiency Transition
Stakeholder Process

BPU Docket No.: Undocketed Matter

Comments of the Division of Rate Counsel

April 15, 2020

Introduction

As part of the process to implement the Clean Energy Act[1], the Office of Clean Energy staff ("OCE", "Staff") of the Board of Public Utilities ("Board", "BPU") circulated a document for comment entitled, "Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs" ("Straw Proposal"). Staff also held a webinar, originally scheduled for March 27 but rescheduled to April 1, 2020, at which stakeholders were invited to provide verbal comments and questions.

The New Jersey Division of Rate Counsel ("Rate Counsel") provides the following comments on the Straw Proposal.

I. Program Administration

Rate Counsel supports the efforts to enhance consistency and comparability to programs available to all ratepayers in New Jersey. This is particularly important if, as proposed, increasing responsibility for the administration of some programs is to be transferred to the utilities rather than the state. Rate Counsel further supports the flexibility for utilities to propose "adders" to core programs as a way to support innovation, and also to recognize opportunities for savings that may be more specific to certain service territories or customers.

[1] N.J.S.A. 48:3-87.3-87.7, the "Clean Energy Act" or "CEA."

One benefit of designing consistent programs to be delivered to key sectors should be a reduction of administrative burden on all parties, as core program designs can be proposed to the Board, allowing it to more efficiently review such programs. Similarly, the focus on using consistent formulas, metrics, and protocols for evaluating subprograms and projecting energy and peak usage reductions has the potential to simplify the review process and enhance public confidence in the utilities' analyses. As a result, and as will be discussed further below, there should be a tailored set of Minimum Filing Requirements ("MFR") for these core programs. The MFRs should encompass what is needed to support budget approval and cost recovery for core programs that are implemented statewide, including a standard benefit-cost analysis of proposed programs, rate impact analysis, quality assurance, and plans for ensuring equitable access to programs for all customers. However, additional information should be provided for any customized utility-specific or pilot programs. For all programs, in additional to financial and ratemaking data, the utilities should provide sufficient information to allow the Board and other parties to evaluate whether the utility's programs are designed to efficiently and effectively meet or exceed the savings and other targets established by the Board under the CEA. These and other aspects of reporting requirements are discussed further in the Filing and Reporting section below.

The implementation of a consistent, coordinated marketing strategy will also help to reduce customer confusion and to ensure that ratepayers throughout New Jersey have access to a full suite of cost-effective energy saving strategies. Rate Counsel supports this approach and looks forward to participating in the proposed Marketing and Communications Working Group.

Rate Counsel supports the stated focus of the Board on equity issues, and agrees that equitable access concerns must be integrated into all aspects of program administration and

implementation.[2] Rate Counsel supports the creation of an Equity Working Group ("EWG") while being mindful of the risk of creating an unmanageable number of working groups for this process. It may make sense to fold the Comfort Partners Working Group into the EWG, making the Comfort Partners program a part of its portfolio.

However, despite the goal of giving primary consideration to equity issues, this area is not well defined in the Straw Proposal. Equitable access must include not only low-income but moderate-income customers as well, a group which is given very little mention in the Straw Proposal. It must include consideration of access for these customers to all residential programs, with special attention to affordability along with health and safety issues. Finally, no metrics of success for achieving equitable access have yet been proposed. In fact, the proposed QPIs for years one and two do not include any consideration of equity issues. Thus, it is all the more important that focused attention be given to these issues by stakeholders as the initial "core" utility programs are being designed and implemented. Rate Counsel looks forward to working with the Board and with other stakeholders to make New Jersey a national leader in promoting equitable access to energy efficiency programs for all customers.

II. Application of Utility Targets

Rate Counsel supports the separation of savings goals into utility and CEP components consistent with a clearly defined division of responsibility for various types of EE programs, and the evaluation of utilities' performance solely on the basis of utility-specific targets. Determining this quantitative allocation of savings responsibility will not be simple, as there are likely to be (as there currently are) utility and CEP programs that complement each other, along with programs that produce both gas and electric savings. While the Straw Proposal does not

[2] Straw Proposal, p. 29.

address these issues it does provide for separate filings on program performance from each utility and from the CEP. Clear and transparent guidelines must be established at the outset regarding allocation of savings between gas utilities, electric utilities, and CEP programs where these overlap, so that the Board is not in the position of adjudicating competing claims for the same savings in subsequent performance review filings.

As noted in Rate Counsel's February 11, 2020 comments, the Board has not yet proposed metrics for most of the identified components of the utility QPIs. It is impossible to evaluate the weightings proposed in the Straw Proposal without knowing what metric will be used to measure each QPI component. Careful design of metrics and weightings is very important to ensuring that distorted incentives do not arise which unintentionally de-emphasize important policy goals of the CEA.

The targets established in Appendix A of the Straw Proposal do not yet reflect the available savings potential in each utility service territory; nor is it clear how the division of the savings targets between the utilities and the CEP was established. However, Rate Counsel believes that these savings targets should be achievable for all utilities through cost-effective EE programs, and that they are reasonably designed to achieve the initial savings required under the CEA. Rate Counsel supports these initial savings targets for each utility, but believes that the targets for years 4 and 5 should be subject to review and revision as part of the first triennial review.

One particular concern is the proposed weighting of 35% for the Utility Cost Test ("UTC") for years 4 and 5, which is greater than the combined weighting of annual and lifetime energy savings for these years. No metric for the UTC has been specified, but if the scoring were to be linearly related to the UTC ratio, this would provide a strong perverse incentive for

utilities to "cherry pick" the most cost-effective measures at the expense of pursuing comprehensive savings. This could be a potentially fatal blow to low-income programs, for example, which generally do not score as highly on benefit-cost tests. Subject to more detail regarding how this metric is to be scored, Rate Counsel cautions against any approach that could overwhelm other policy goals through an overreliance on high scores on one benefit cost test, or any over-emphasis on achieving extremely high benefit-to-cost ratios at the expense of providing a broad range of cost-effective programs, high levels of savings, and equitable access for all customers.

III. Cost Recovery and Performance Incentives and Penalties

A. Proposed Investment Treatment

1. Overview of Straw Proposal

The Straw Proposal allows utilities to earn a return of and a return on their energy efficiency investments. This is an important provision of the Straw Proposal because it eliminates utility disincentives for pursuing EE investments. For ratemaking purposes, the Straw Proposal proposes to amortize EE expenditures (other than those associated with operations and maintenance) over a seven-year period to allow utilities to recover their EE investment costs more quickly while reducing the program return component and overall revenue requirement from ratepayers.[3] This shorter amortization period will also reduce the potential rate shock associated with EE transition programs and spreads program costs over a period of time to better match program costs with program benefits.[4]

More importantly, the Straw Proposal allows utilities to earn a rate of return on EE investments based on each utility's capital structure as established in its most recent base rate

[3] Straw Proposal, p. 39.
[4] Id.

case, incorporating both: (a) the cost of debt; and (b) the return on equity ("ROE") less 100 basis points (or "bps").[5] The 100 bps adjustment factor is designed to account for the differences in risk associated with the immediate cost recovery of EE investments that are allowed under the CEA.[6] In order to encourage EE investment and attainment of EE goals, the Straw Proposal does not include an initial investment constraint, rate cap, or any other financial constraint on EE investments that are tied to ratepayers' distribution rates, or their overall bills.[7] The Straw Proposal does note however, that rate impacts will be closely monitored and a cap on rates or customer bills may be put in place two years after the approval of EE programs.[8] Lastly, the Straw allows utilities to assess carrying charges on its over- and under-recovery balances at a rate that is measured as the two-year Treasury bill rate plus 60 basis points.[9]

2. The Straw Proposal will Facilitate and Incent Cost-Effective EE

In general, Rate Counsel supports the Straw Proposal, but as noted throughout our comments, Rate Counsel offers suggestions on how the Straw Proposal could be improved. Rate Counsel believes the Straw provides considerable incentives to meet New Jersey's EE goals. These incentives are multifold and include:

- Utilities will be allowed to receive contemporaneous ratemaking treatment for their EE investments. They will not be required to wait until their next base rate case to receive ratemaking treatment of these investments.
- Utilities will be allowed a return on and of their EE investments.
- Utilities will be allowed to earn higher returns, through the program incentives, if they achieve high degrees of EE savings.
- Program investments will be amortized over a modest period that helps to minimize rate impacts but does not result in unnecessary ratepayer costs.
- Utilities will receive carrying costs on any over- or under-recoveries, assuring they are made 100 percent whole for their EE investments.

[5] Id.
[6] Id.
[7] Id., p. 40.
[8] Id.
[9] Id.

- Utilities will be allowed to recover lost base revenues directly associated with their EE efforts.

The Straw Proposal affords New Jersey's utilities a set of incentives and ratemaking provisions that collectively, will be some of the most progressive in the country since few utilities in the United States are allowed an opportunity to even earn any return on their EE investments. While many states offer financial incentives to utilities for meeting EE targets, most regulators require utilities to expense their EE investments on a direct, dollar-for-dollar pass-through basis with no earnings opportunities.[10]

In this sense, Rate Counsel believes the Straw Proposal strikes a reasonable balance in creating a progressive set of EE investment incentives, while at the same time, balancing those incentives against ratepayer costs. Those stakeholders participating in the recent April 1, 2020 Straw proposal webinar who suggested that the Straw Proposal is deficient and will somehow "under-incent" EE investment, or create an environment in which traditional utility investment in infrastructure is preferred to EE investment, are incorrect for a number of reasons.

First, the single most important factor incenting utilities to promote EE in New Jersey is the CEA itself which requires electric utilities to reduce electricity usage by at least two percent per year over a five-year period. This two percent reduction is relative to the prior three-year average electricity levels. Similarly, the CEA requires natural gas utilities to achieve at least a 0.75 percent annual usage reduction, over a five-year period. Again, this reduction is relative to the prior three-year average annual usage level.[11] The CEA effectively eliminates any utility disincentive to engage in EE activities since it mandates utilities to adopt EE programs and meet

[10] American Council for an Energy Efficient Economy. 2018. Snapshot of Energy Efficient Performance Incentives for Electric Utilities; Available at: https://aceee.org/topic-brief/pims-121118.

[11] N.J.SA. 48:3-87.9(a).

target usage reduction levels. Further, the CEA and the Straw Proposal establish both incentives and penalties for utilities' EE activities and performance that should, in conjunction with the strict mandate, provide additional strong incentives to promote EE in New Jersey.

Second, several parties at the April 1, 2020 Straw Proposal webinar suggested that the Straw's allowed return, set as a utility's ROE less 100 bps, will create a preference for "traditional" utility infrastructure investments over EE investments. While overcapitalization is always an issue in utility regulation, and Rate Counsel does have concerns about future utility capacity investments, the "substitutability" of "traditional" utility investment and EE investment offered by these parties is misplaced, particularly given the nature of New Jersey utility capital investments over the past decade.

Consider for instance, that most utility infrastructure investments over the past decade have been overwhelmingly directed towards safety, reliability, and resiliency. The PSE&G Energy Strong I ("ESI") proposal was comprised of $3.9 billion in resiliency and system hardening investments for its electric and gas system. The Company proposed $2.6 billion in electric system resiliency and reliability investments and $1.3 billion in gas system replacement, safety and resiliency investments. Ultimately, the Board only approved $1.2 billion for the ESI program. Four years later (June 2018), PSE&G came back to the Board for a second bite at the apple requesting approval for a $2.5 billion Energy Strong II ("ESII") proposal ($1.5 billion electric system, $1.0 billion natural gas system); again, entirely dedicated to reliability, safety and resiliency investments. Ultimately, PSE&G was only awarded $842 million of the ESII request.

Rate Counsel highlights these PSE&G infrastructure proposals for a few reasons. First, these proposed infrastructure investments offered by PSE&G and similar proposals by other

electric and natural gas utilities, have been entirely based upon resiliency, safety, and reliability: these investment programs have little to nothing to do with growth nor are they substitutable with a comparable EE investment (since no such comparable EE investment exists). Second, the Board clearly recognized the over-reach associated with both PSE&G proposals as filed, and has done so for many other New Jersey utility proposals, only approving 40 percent of the originally requested capital investment in the case of PSE&G (average over both ESI and ESII). Thus, it is: (a) highly unlikely in practice that the Staff's proposed EE incentive structure will incent unnecessary capacity investments over EE investments; and (b) to date, the Board has viewed most utility infrastructure requests with a critical eye in order to assure that only those investments with the highest likelihood of providing ratepayer benefits are approved. In sum, while infrastructure and EE investments are inherently different in nature, there are institutional safeguards in place to prevent over-investment in EE.

Thus, any concerns that the Straw Proposal would create a preference or incent utility infrastructure investments over EE investments is misplaced and inconsistent with past Board decisions. The infrastructure investments that have been proffered by utilities over the past few years have been primarily reliability and resiliency-oriented and these investments simply cannot be thought of as a substitute to EE investments. Further, even if there were some degree of substitutability or linkage between these types of investments, the Board has wisely reviewed and governed recent utility infrastructure requests and there is no reason to believe that this will change in the future with approval of the Straw Proposal.

Lastly, Rate Counsel supports the amortization period proposed in the Straw Proposal that will limit EE cost and investment recovery to a seven-year period. While longer amortization periods can have the benefit of smoothing rate impacts, they can also unnecessarily

increase the total earnings that are collected in retail rates (i.e., longer financing periods often entail greater levels of financial support). These increased earnings opportunities come at ratepayers' expense: the longer the amortization period, the greater the overall earnings associated with these investments despite a lower annual revenue requirement from such investments.

Ratepayers should not be required to "over-pay" or "over-incent" utilities for promoting EE savings that they are required to already achieve by law. The fact that utilities receive a fair rate of return on these investments, over a reasonable time period, should suffice. The Straw Proposal therefore, draws an appropriate balance between creating utility incentives (through higher earnings) and minimizing rate shock and ratepayer financial support for higher utility EE investments.

3. Staff's Proposal Gives Utilities a Unique Opportunity to Earn a Return on EE Investments

The Straw Proposal's proposed return on EE investments was one of the more, if not the most contentious issue that arose during the April 1, 2020 stakeholder meeting. The Straw Proposal establishes a return on EE investment of a utility's ROE less 100 bps. A number of stakeholders claimed this as being a disincentive to EE investments, with others suggested it would be punitive to utilities. Rate Counsel wishes to emphasize that allowing a rate of return on any EE investment is an exception to the rule, not something that is commonplace in utility regulation around the U.S. Currently, there are only four other states/jurisdictions that allow for any rate of return on EE investments (Washington DC, Illinois, Maryland, and Utah).[12] Most

[12] American Council for an Energy Efficient Economy. 2018. Snapshot of Energy Efficient Performance Incentives for Electric Utilities; Available at: https://aceee.org/topic-brief/pims-121118; MD PSC (Maryland Public Service Commission), In the Matter of the Commission's

regulatory commissions treat EE as an expense that is recovered on a dollar-for-dollar basis with no allowed return of any kind.

Rate Counsel agrees with the rationale proffered by the Straw in setting the allowed return proposal:

> there is an inherent reduction in risk associated with the contemporaneous recovery available through this mechanism, where utilities are recovering a portion of costs as they are being incurred, as opposed to recovery in base rates where the utility may not be able to recover costs for years after they are incurred and that recovery is not guaranteed. The energy efficiency programs are also less risky than traditional infrastructure investment found in a base rate case because, generally, energy efficiency programs are not subject to the same project execution risks; will not undergo several years of construction with the associated regulatory lag; and do not face the traditional risk that the Board may find the investment not reasonable and prudent, or not used and useful.[13]

Thus, the Straw Proposal justifies this adjustment based on the fact that: (a) utilities will be receiving a unique opportunity to not only get contemporaneous cost recovery, but a contemporaneous return on investment with this proposed program; and (b) there are inherent differences in risk in the development of EE investments and physical infrastructure. Rate Counsel agrees with the Straw Proposal's rationale.

There is nothing in the CEA that prohibits the proposed 100 bps adjustment, contrary to certain assertions made during the April 1 stakeholder meeting. While the CEA requires the Board to allow utilities a "return" on EE investments, it does not identify how that return should be calculated. The CEA does not explicitly tell the Board what return should be used; only that some return be applied to utility EE investments. The CEA also allows an incentive restructure to be tied in some fashion to a base allowed return, yet, here again, the CEA does not directly tell

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Investigation of Advanced Meeting Technical Standards, Demand Side Management Cost Effectiveness Tests and Demand Side Management Programs. Order No. 81637, Case No. 9111, September 28 (Baltimore: MD PSC, 2007).

[13] Straw Proposal, p. 39.

the Board what return should be set nor does it tell the Board how this return should be established.[14] Thus, there is no support for stakeholder claims that the Straw Proposal is somehow "too low" or "inconsistent" with the CEA. The plain intent of the CEA is to require a "return" and it leaves the determination of this return to the Board. Rate Counsel, therefore, supports the return being proposed in the Straw as being fair and reasonable, and consistent with the CEA. Without this reduction the utilities could earn an ROE that is greater than 11 percent which would be simply unreasonable, particularly in today's environment.

Furthermore, the use of an adjusted or alternative ROE for EE investment returns is not uncommon in utility regulation, particularly in the handful of states that allow returns on EE investments. Consider that in Illinois, the Future Energy Jobs Bill in 2016 (SB 2814) allows utilities to amortize their EE investments over the weighted average measure life of the portfolio of programs. The return allowed for these investments is calculated as the average of the prior year's monthly average yields of 30-year U.S. Treasury bonds plus 580 basis points. [15,16] This would equate to a ROE of 8.38 percent and this approach is not dissimilar to the one included in the Straw.

Lastly, the Straw Proposal also allows utilities to recover, or credit, carrying costs on any unrecovered (or over-recovery) of EE cost balances throughout the course of any given year. These carrying costs are set at the two-year Treasury bill rate plus 60 basis points.[17] This is an additional important provision in the Straw that reduces risks for utilities. Under the Straw,

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[14] N.J.S.A. 48:3-87.9(e).

[15] American Council for an Energy Efficient Economy. 2018. Snapshot of Energy Efficient Performance Incentives for Electric Utilities; Available at: https://aceee.org/topic-brief/pims-121118.

[16] The 2019 average of the monthly yield on a 30-year U.S. Treasury bond was 2.58 percent. (https://www.federalreserve.gov/releases/H15/default.htm).

[17] Straw Proposal, p. 40.

utilities get not only contemporaneous recoveries and contemporaneous rates of return, but they also get a funding mechanism that keeps them whole for outstanding cost recovery balances. This is an additional risk-reducing feature of the Straw Proposal that further justifies the 100 basis point risk adjustment.

4. Program Rate Cap

In order to encourage attainment of EE goals, the Straw Proposal does not include a program investment or rate cap.[18] According to the Straw Proposal, rate impacts will be closely monitored and a cap on rates or customer bills may be put in place two years after approval of the EE transition programs.[19] This is a generous provision that reduces risk and once again, underscores the need for the 100 bps adjustment recommended by the Straw Proposal.

B. Proposed Lost Revenue Treatment

1. Overview of Straw Proposal

The Straw Proposal includes a lost revenue adjustment mechanism ("LRAM") that only allows utilities to recover those revenues that were lost from activities that are directly attributable to utility EE efforts.[20] This differs from a full decoupling mechanism that allows utilities to recover any changes in revenue from a base level, regardless of the reason for those revenue changes. The Straw Proposal's proposed LRAM will allow utilities to recover lost revenues in the amount that they can demonstrate were directly attributable to their EE transition programs.[21] These lost revenues will be reviewed and recovered annually.[22] Only lost revenues

[18] Id.
[19] Id.
[20] Id.
[21] Id., p. 41.
[22] Id.

associated with the utility's distribution base rates are recoverable and utilities will be required to file a base rate case within five years of the start of an EE transition program to ensure usage projections are updated and reset.[23]

The Straw Proposal notes that the LRAM proposal builds on the State's experience with the Conservation Incentive Plan ("CIP") currently in place for natural gas utilities.[24] The Board adopted the CIP in 2006 for New Jersey Natural Gas ("NJNG") and South Jersey Gas Company ("SJG") as a way to address the purported issues associated with the utilities' incentive for adopting energy efficiency programs.[25] The CIP rests upon two fundamental pillars. First, that utilities have some "skin in the game" by sharing in the costs of providing energy efficiency services to its customers; and second, that utilities will provide capacity-oriented savings in return for any lost revenue recovery. In other words, utilities must work to create total system savings, and must incur some costs of end-user efficiency development if they are to receive any efficiency-specific lost revenue recovery.

2. The Straw Proposal's Lost Revenue Approach is Appropriate and Consistent with the CEA

The Straw Proposal's proposed LRAM is appropriate since it is a performance-based mechanism that ties lost revenue recovery to a utility's energy efficiency activities. In principle, a LRAM is consistent with the performance-based nature of a CIP since the LRAM requires utilities to perform certain activities prior to receiving any lost base revenue recoveries. Rate Counsel supports the Straw proposal that ties lost base revenue recovery to utility performance.

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[23] Id.
[24] Id, p. 40.
[25] See I/M/O SJG and NJNG for the Implementation of a Conservation and Usage Adjustment, BPU Dkt. Nos. GR05121019 and GR05121020, Decision and Order Approving Stipulation (December 12, 2006).

This is also consistent with the specific language in the CEA and the establishment of performance targets and quantitative performance indicators. In doing so, the Straw puts the risk of revenue recovery on the party best positioned to assume that risk: the utility, not ratepayers.

3. Full Revenue Decoupling is Inappropriate

During the April 1, 2020 Straw Proposal webinar, many stakeholders argued that full revenue decoupling mechanisms would be more appropriate than the Straw's proposed LRAM. These parties argue that utilities will not be fully incented to purse EE without full revenue decoupling. Rate Counsel wholeheartedly disagrees. The CEA effectively eliminates this disincentive since it mandates utilities to adopt energy efficiency programs and meet target usage reduction levels. The Board need not adopt full revenue decoupling to require any utility to behave in a certain manner since the CEA does that already.

Consider that the CEA, and the Straw Proposal: (a) gives utilities full cost recovery of the EE investments; (b) provides for a rate of return on these EE investments; (c) allows utilities to assess carrying charges on any unrecovered balance during the period of contemporaneous investment recovery. In addition, the Straw Proposal gives utilities an opportunity for financial incentives when they meet their designated EE targets. These provisions, in total, and coupled with the mandatory nature of the CEA, should be incentive enough. To give utilities, on top of this collective "de-risking" of EE investments, an additional revenue insurance mechanism, that makes utilities whole for revenue losses that have nothing to do with their efficiency efforts, does nothing but over-incent utilities and gives them additional revenues to which they are not entitled.

Lastly, and most importantly, revenue decoupling mechanisms shift revenue recovery risk from utilities and their shareholders and onto ratepayers. The Straw Proposal recognizes the

risk shifting nature of a full revenue decoupling mechanism. It is imperative to highlight that in today's economic and social climate, a full decoupling mechanism would only serve to harm ratepayers. After experiencing a warm winter and decreased natural gas consumption, New Jersey finds itself in the middle of a global pandemic with energy prices plummeting, businesses closing, record unemployment levels and people already struggling to pay their bills. A full decoupling mechanism would ensure that utility shareholders are made whole for any losses while transferring 100 percent of the risk and responsibility for making up those loses onto ratepayers.

4. The Principles Underlying the CIP Should be Maintained

Two of the overarching principles of the Board's CIP for gas utilities has been that all lost revenue recoveries are tied to: (a) utilities participating in the cost of their own EE programs; and (b) utilities having to show demand (capacity) savings. Rate Counsel supports these CIP principles since they tie lost revenue recovery to real measurable changes in utility actions, and not to theoretical relationships. A gas utility under a CIP that is not committed to genuine EE savings, through program development or efficient execution of its EE agenda, will not receive lost revenues. In other words, a utility's ability to collect lost revenues under a CIP is tied to that utility's actions. Likewise, a gas utility under a CIP is required to measure and document upstream demand (capacity) savings (usually in transport and storage) in order to receive lost revenue recovery. Again, a utility's ability to collect lost revenues is tied to its actions, not theory. Rate Counsel supports these principles and encourages Staff to further tie the LRAM, as well as other EE cost recovery and incentive mechanisms to these kinds of principles. Programs tied to such performance-based metrics and actions will be good for the environment and good for ratepayers.

5. The Straw Proposal is Currently Not Entirely Consistent with CIP Principles

While the Straw Proposal's LRAM proposal is conceptually consistent with the CIP in its performance-based nature, the LRAM is still not entirely consistent with the two overarching CIP themes discussed above. The Straw Proposal does not, for instance, tie cost recovery, or a utility's ability to earn a return on investment, to lost revenue recovery. Further, while the LRAM is tied to energy savings that are measured through a utility's efforts, they are not tied to demand-oriented savings in a way comparable to the current CIP.

For instance, the Straw Proposal will not hold utilities accountable for demand savings during the "initial years." This type of provision is not consistent with the CIP which ties lost revenue recovery to capacity need reductions (through decreased peak demand requirements). Rate Counsel strongly encourages Staff to reconsider this waiver since having a set of measurable demand reductions is critical to assure that: (a) utilities are not overcapitalizing; and (b) that if fixed costs (from capacity investments) are going unrecovered, they can be tied or documented to corresponding demand reductions.

For instance, the Straw Proposal appears to not require utilities to report, nor be accountable for any active peak demand savings; at least in the initial years of the program. [26] Further, the Straw Proposal seems to limit the proposed incentive/penalty mechanism to just annual energy savings and lifetime energy savings, excluding any peak demand related incentives. The exclusion of any active peak demand reductions, coupled with the exclusive of peak demand savings from the incentive/penalty structure, will make it difficult to establish a lost revenue recovery mechanisms that is entirely consistent with past New Jersey CIP practices which, for gas utilities, has tied lost revenue recovery to capacity need reductions (through

[26] Straw Proposal, p. 34.

decreased peak demand requirements in transportation and storage). Rate Counsel strongly encourages the Staff to reconsider its collective peak demand waivers since having a set of measurable demand reductions is critical to assure that: (a) utilities are not overcapitalizing; and (b) that if fixed costs (from capacity investments) are going unrecovered, they can be tied or documented to corresponding demand reductions.

6. Gas utilities should continue with their CIP programs

Rate Counsel supports the Straw Proposal's recommendation to maintain the existing CIP for the two natural gas utilities that currently have such programs and extend that program to the state's other natural gas utility (PSE&G). Staff has noted in its Straw Proposal that the CIP has resulted in positive behavioral changes and has resulted in ratepayer benefits. Such a program, therefore, needs to be continued, at minimum, for all of New Jersey's natural gas utilities. The CIP program can be extended to electric utilities, as noted above, if the mechanisms of the LRAM are modified such that EE program costs are shared between utilities and ratepayers and, more importantly, lost revenue recovery is tied to peak demand (capacity) savings. For instance, the Board could set lost revenue recovery on a sliding scale similar to the Straw's EE incentives. This sliding scale would be tied to peak demand savings.

C. Proposed Performance Incentive and Penalty Treatment

1. Overview of Staff Straw Proposal

The Straw Proposal includes a mechanism for a performance incentive and performance penalty.[27] These will both take the form of a ROE adjustment applied to EE transition program investments. If a utility achieves between only 50 percent and 90 percent of its QPI

[27] Straw Proposal, p. 41.

achievement, there will be a performance penalty.[28] On the other hand, if a utility achieves between 110 percent and 150 percent of the QPI achievement there will be a performance incentive.[29] Achievement between 90 percent and 110 percent will be considered to be within a neutral or buffer area, and there will be no incentive or penalty assessed. The WACC used as a utility's carrying cost will be comprised of: (a) the cost of debt; and (b) the ROE less 100 basis points as identified in the Investment Treatment section of the Straw.

The performance penalty is set on a linear scale from the utility's cost of debt, if the utility reaches 50 percent or more of QPI achievement; to the utility's ROE less 100 basis points, starting at 90 percent and up to 110 percent of QPI achievement. The performance incentive is similarly set on a linear scale from the utility's ROE less 100 basis points (starting at 110 percent of QPI achievement) to the utility's full ROE (up to 150 percent of QPI achievement). If a utility fails to reach 50 percent of the target, they will be deemed non-compliant and a penalty of 0.75 percent of base rate distribution revenue will be assessed.[30] In addition, the performance incentive and the performance penalty structure will be reviewed three years after a utility's EE transition program is approved. The utility QPI's will also be reviewed and assessed at that time.

2. The Proposed Incentives are Appropriate

The Straw Proposal's proposed incentive structure should incent successful EE development. The proposed structure is well-constructed and incudes symmetrical incentive ranges, penalty ranges and a fair and reasonable deadband (QPI achievement between 90 to 110 percent of target). The linear scale increases both rewards and penalties as a utility's EE performance either exceeds or falls short of the target levels. This approach is consistent with

[28] Id.
[29] Id.
[30] Id.

the plain language and intent of the CEA. While the incentive structure provides substantial financial rewards for utilities that achieve exceptional EE performance, those financial rewards are tempered, or capped at a utility's overall allowed rate of return as established by the Board. This creates positive incentives and maintains a balance between utility and ratepayer interests.

3. The Incentive Proposals will not "Dis-incent" EE Investment

Several parties at the April 1 stakeholder meeting raised concerns about the Straw's proposed incentive structure. The primary disagreement these parties expressed was that the sliding incentive structure that is tied to Straw Proposal's proposed base rate of return on EE investment will simply be inadequate. Rate Counsel disagrees with this position for many of the same reasons expressed earlier in the discussion of the return on EE investment. The Straw Proposal's proposed incentive structure affords utilities a generous and reasonable rate of return given the limited risk of the EE investments in question and the contemporaneous recovery of cost offered by the Straw. More importantly, Rate Counsel believes that the Straw Proposal's proposed incentive structure is entirely consistent with the letter and spirit of the CEA which itself suggests a similar type of sliding incentive structure.

Nowhere does the CEA, explicitly or implicitly suggest that utilities should earn returns on their EE investments that are higher, or even comparable to the returns they get from their normal investments. In fact, as noted earlier, the CEA defers the establishment of a specific return on EE investment to the Board and only speaks of such a return in general terms. The only requirement associated with the return on EE investments that is included in the CEA is simply that the Board shall provide utilities with an opportunity for a return on these investments, not a specific level nor rate of return.

There is no justification in the CEA for any position that utilities should be allowed to earn enhanced rates of return on their EE investments: but this is the position that has been suggested by several EE advocates and the utilities themselves in the recent April 1, 2020 stakeholder meeting. Rate Counsel believes there is no statutory justification for such a position and Rate Counsel strongly disagrees with any proposition that would allow utilities such extraordinary returns.

The recommendation for enhanced allowed returns on EE investments fails to appreciate that these excessive returns must be financially supported through retail rates. Rate Counsel does not support allowing utilities to be allowed to impose unnecessary financial burdens on retail ratepayers for EE investments that these utilities are required by law to achieve. No additional incentives, be it revenue decoupling, or enhanced returns on EE investments, are needed outside of the ones defined by the CEA and proposed by Staff in the Straw Proposal.

4. The Incentive Proposals Appropriately Reflect Risk

The Straw Proposal's proposed incentive structure adequately and fairly addresses risk. As noted earlier, the "base" allowed return embedded in the Straw Proposal's incentive structure recognizes the decreased risk associated with utility EE investments in New Jersey (under the Straw Proposal). The lower risk arises from the fact that utilities will be given contemporaneous recovery of not only their EE investment costs, but the rate of return on those EE investments; which is an opportunity not afforded to traditional utility capacity-oriented investments. Further, the Straw Proposal affords utilities the opportunity to recover carrying costs on unrecovered EE cost balances. Collectively, these provisions make EE investments inherently less risky than other types of utility investments and this needs to be accounted for in the base rate of return, and the incentive structure that relies on this base return as its starting point.

The Straw Proposal's incentive structure also recognizes the increased risk that will be taken by utilities as they move from the "lower hanging fruit" EE programs to those that may be more expensive or complicated (i.e., "risker"). The more risk a utility assumes in promoting such programs, the higher their earnings under the Straw Proposal since higher risk EE programs tend to result in higher savings, which will push total utility savings into higher performance bands. Thus, the Straw Proposal adequately reflects risk in both the base allowed ROE, and the increasing financial incentives needed to encourage utilities to take on more risky EE investments. The approach is consistent with the CEA and will result in outcomes where ratepayers are not over-incenting required utility efficiency behavior.

5. Utility Posturing on Incentives, and ROE, will over Incent EE Investments at Ratepayers' Expense

Rate Counsel does not support the positions offered by other parties, including utilities, that would increase allowed returns for utility investments. Increasing allowed returns above the levels outlined in the Straw Proposal will simply inflate utility earnings opportunities that will have to be financially supported by retail ratepayers. Rate Counsel suggests that it is not fair to burden ratepayers during these uncertain and challenging times with additional costs that are unnecessary and inconsistent with the spirit of the CEA.

IV. Evaluation, Measurement, and Verification ("EM&V")

A. General

Rate Counsel strongly supports the Straw Proposal's recommendation of a standard, clearly-defined, transparent, and replicable approach to EM&V that is consistent for all utilities and for the State, overseen by a Statewide Evaluation Manager, who would ensure coordination and consistency on key inputs. Rate Counsel also supports a standard approach to budgeting for

EM&V, for which 3%-4% of program budget is a reasonable guideline, although appropriate budget amounts may vary based on the nature of specific subprograms and customer groups. As noted in the Straw Proposal, close coordination and well-defined EM&V approaches will be particularly important for programs that are co-managed, or for which there are overlaps between gas and electric utilities and the CEP.

It is also essential that all parties are in agreement on EM&V approaches that will form the basis of New Jersey's EE incentive structure and any lost revenue recovery mechanism. Rate Counsel looks forward to participation in the EM&V Working Group, and with the proposed Statewide Evaluation Manager, to establish these clean and uniform standards and to ensure that the New Jersey Technical Resource Manual ("TRM") is regularly reviewed and updated. The Statewide Evaluation Manager will need further direction on how key policy objectives beyond energy savings are to be evaluated – for example, how equity is to be tracked and measured, and how costs and savings are to be attributed to individual gas and electric utilities and the state for calculating costs and benefits.

The evaluation of both net and gross savings will be important to enable reporting on savings that are attributable to utility programs, as directed under N.J.S.A. 48:3-87.9(c). Staff should provide the basis for its interim Net-to-Gross ("NTG") assumption of 0.84 (page 53) and clarify its assumptions about both free riders (customers that would have implemented EE in the absence of an incentive, so the rebate has no impact on energy use) and spillover effects (customers who are influenced to implement efficiency by the programs but do not participate themselves.)

B. Benefit-Cost Analyses

The CEA states that "[t]he energy efficiency programs and peak demand reduction programs shall have a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level, considering both economic and environmental factors."[31] As noted above in the Program Administration section, the need to maintain cost-effectiveness with a ratio greater than or equal to 1.0 should not be taken to imply that New Jersey's policy is to reach the highest possible levels of BCA ratios. To the contrary, the goal of the CEA is to achieve the "full economic, cost-effective potential for electricity usage reduction and natural gas usage reduction" along with peak use reduction.[32]

To determine cost effectiveness, Rate Counsel believes that the standard set of tests from the California Standard Practice Manual ("CSPM") provide an important multi-perspective assessment of cost effectiveness, and all tests should be retained. However, the specific reference to "considering both economic and environmental factors" suggests that achieving a ratio of 1.0 or greater on the Societal Cost Test ("SCT") should be given particular weight as a screening test. However, the SCT is also the test most subject to widely varying approaches to implementation, as there has historically been little agreement on what constitutes "societal" costs and benefits and how these should be quantified. Stakeholders and the Board should also establish discount rates to be used for each benefit-cost test, and in particular for the SCT. It will be crucial for stakeholders to establish this and other specific implementation details to be used by all parties so that there can be a consistent basis for evaluation and comparison for all utilities and the CEP.

[31] N.J.S.A. 48:3-87.9(d)(2).
[32] N.J.S.A. 48:3-87.9(b).

In its Straw Proposal, Staff recommends the development of a Resource Value Test ("RVT") following the guidelines of the National Standard Practice Manual ("NSPM"). Rate Counsel notes that the multi-factor design of New Jersey's QPIs and the weighted scoring approach proposed in the Straw Proposal is itself reflective of the policy-driven design principles espoused by the NSPM. It is not clear how designing a BCA test based on these same principles would add value to this construct. Rate Counsel supports retaining the standard benefit-cost tests, clearly and uniformly designed and implemented, to be applied in the context of the multi-factor QPIs. However, if such a "New Jersey Test" is to be defined, Staff should provide a clear description, including examples, to show how such hard-to-quantify values as ecosystem health, increased resiliency, job creation, and comfort would be quantified and placed on a comparable basis with energy savings and other standard metrics.

V. Filing and Reporting

Rate Counsel generally agrees with the "guiding principles for program filing requirements" set forth on page 56 of the Straw Proposal. A central goal of the CEA, and of the stakeholder workgroup processes established pursuant thereto, is to establish consistent, transparent program design practices among the gas and electric utilities and the CEP, and thus to reduce the administrative burden on all parties. Moreover, comprehensive filing requirements should facilitate the efficient review of utility filings by providing more complete information and eliminating the need for time consuming discovery processes. Further, once utilities adopt standard "core" program designs, BCA, and EM&V practices, many of the proposed MFRs could be further refined. Final development of the MFRs should take place after policies for rate recovery, program administration, and other substantive aspects of CEA implementation have been set.

The MFRs should encompass what is needed to support budget approval and cost recovery for standard or core programs that are implemented statewide, standard benefit-cost analysis of proposed programs, rate impact analysis, quality assurance, plans for ensuring equitable access to programs for all customers, and additional information for any customized or pilot programs. In addition to financial and ratemaking information, they should also provide sufficient information to allow the Board and interested parties to evaluate whether the utility's programs are designed to efficiently and effectively meet or exceed the savings and other targets established by the Board under the CEA. Again, final development of the MFRs should take place after policies for rate recovery, program administration, and other substantive aspects of CEA implementation have been set.

Finally, in the interest of efficiently deploying limited regulatory resources, initial utility filings should be staggered. The Board should adopt a filing schedule delineating the particular filing date for each utility.

VI. Programs for Low and Moderate Income Customers

Rate Counsel recommends that the Board monitor the ability of all customers, including low and moderate income customers, to participate and benefit from CEA EE programs. The CEA and the Straw Proposal both acknowledge that lower-income customers face certain barriers that can impair cost-effectiveness, and therefore place special emphasis on ensuring that these customers have equitable access to programs and energy cost savings. These barriers can include health and safety issues, split landlord/tenant incentives, age and condition of dwellings, and lack of up-front capital.

These barriers to participation can be better understood by partnering with community organizations in low and moderate-income communities and by obtaining structured data from

contractors. Partnerships with community organizations build trust and they can provide enhanced education to communities about available assistance, any costs involved, and the estimated benefit of the proposed energy efficiency measures. Additionally, split incentives to landlords and tenants require targeted consumer education. Community organizations can assist in understanding the average contribution a low or moderate-income family can afford and therefore assist in developing more narrowly-tailored programs in the future. Collecting structured data from contractors can help utilities and community organizations identify the most frequently-encountered health and safety barriers. The extent of these problems and other common health and safety barriers to the implementation of EE should also be explored and addressed systematically as they arise so projects for low and moderate-income consumers proceed expeditiously. To better streamline these projects, the Board should coordinate with other agencies in state government to address the underlying health and safety concerns when they arise. The costs and challenges of addressing these customers' needs will need to be continuously addressed as the utilities and the CEP reach for more aggressive levels of savings. This goal must not be compromised by incentives for reaching high benefit-to-cost ratios, as discussed above.

Staff should also consider offering more low and moderate-income EE programs in addition to Comfort Partners. In the absence of additional programs tailored to low and moderate-income consumers, the Board should at a minimum require utilities to track low and moderate-income participation in all EE programs. This can either be accomplished by collecting information about a participant's income or extrapolating the information from census tract data. Since Staff outlined in the Straw that it intends to continue to gain stakeholder input

on equity issues through the summer of 2020,[33] Rate Counsel looks forward to working with Staff and other parties on this issue.

Furthermore, in light of the recent health pandemic the Board should pay particular attention to the affordability of utility service going forward, given the anticipated cost burdens of CEA programs and general economic conditions. The Board should also consider the impact on low and moderate income households when setting program objectives, oversight, and program management responsibilities. Careful program design and collaboration with other relevant state agencies can help to ensure that low- and moderate-income customers have access to as broad an array of programs as possible, and that the benefits from the savings achieved outweigh any additional cost burden for these customers.

[33] Straw Proposal, p. 29.

April 13, 2020

Attention: Aida Camacho
Office of the Secretary of the Board
Board of Public Utilities 44 South Clinton Avenue,
3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Energy Efficiency Transition Straw Proposal
Docket NO. QO19010040

Dear Ms. Camacho:

On behalf of the New Jersey Energy Coalition, I submit these comments related to the Energy Efficiency Transition Straw Proposal request for comments, docket number QO19010040. The New Jersey Energy Coalition is a member-based organization that represents the energy industry in New Jersey.

This is a great opportunity for the State of New Jersey to lead in both energy efficiency and economic recovery. In 2018 New Jersey passed a new clean energy act, which was negotiated in good faith by all parties involved. The act calls for a mandate of energy reduction by the gas and electric utilities. A lot has changed since the act was passed. COVID-19 has dramatically impacted the entire American economy. Energy efficiency is crucial to help restart the New Jersey economy. There are about 2.2 million American jobs in energy efficiency.[i] A report from USENERGYJOB.org says 37, 982 people were employed in the energy efficiency sector of New Jersey's economy at the end of 2019.[ii] On April 10, 2020 Tom Johnson of NJ Spotlight reported energy efficiency companies are having issues just like every other company because of the COVID-19 cutting salaries and laying off staff.[iii]

When the stay at home executive orders are lifted throughout the nation, New Jersey's economy will compete with every other state for economic activity. Every state will do what is in their best interests to rebuild their economy and New Jersey should be doing everything possible to attract investment. Energy efficiency is one of the places which can quickly help spur economic activity in New Jersey. Energy efficiency delivers an abundant of benefits for rate payers and society. If the return on equity for energy efficiency is better in another state then New Jersey, capital will flow to those states faster than New Jersey.

The benefits of energy efficiency are not just in the economy or on reduction of energy use. "Many of these benefits are frequently undervalued or not valued at all when energy efficiency measures are assessed."[iv] Even more so how do we measure a kilowatt

not created because of energy efficiency? Regulatory Assistance Project (RAP) wrote in its Electric Regulation in the US; A Guide that, "a kilowatt saved is worth more than the kilowatt supplied, because the utility system avoids transmission and distribution costs, and line losses, plus it avoids the reserve capacity needed to assure reliable service."[v] This means the value of energy not produced because of energy efficiency needs to be treated at least equal to the energy used. This means the return on equity needs to be at least equal to current standards. But given the current straw proposal of a reduction of 100 basis points, it appears the energy not created because of energy efficiency is worthless then the energy created.

Additionality, for anyone to suggest that energy efficiency is less risky than any other utility investment is to suggest our entire American economic system is flawed on the value of equity. Our whole economic system is based on proper allocation of finite capital to be put into sectors and industries which yield dividends, which are everything from environmental, resiliency, technological advancements, redeployment of capital into new projects, and direct investment into low- and moderate-income (LMI) communities. New Jersey current ratemaking is based on volumetric sales. A reduction of sales means reduction in capital able to deploy for investments and needs of the system. This all means a reduction in volumetric sales combined with a suggested reduction in ROE would hinder energy efficiency in New Jersey.

Rate-payers will also see benefits from energy efficiency programs. The U.S. Department of Energy estimates that the typical household can save 25% on utility bills with energy efficiency measures, which amounts to over $2,200 annually.[vi] The cumulative savings from energy efficiency since 1980 has reduced today's energy expenditures by approximately $800 billion.[vii] Energy efficient appliances can save an American household up to $500 a year on utility bills. People who live in the five least-efficient states (Wyoming, North Dakota, Alabama, South Dakota, and Mississippi) have seen their electric bills increase twice as much as those who live in the five most-efficient states (California, Oregon, Connecticut, Vermont, and New York), according to 2016 rankings.[viii] This all means New Jersey must get the new energy efficiency program right.

Amortizing costs need to be considered when thinking about bill shock. Using the expected life will reduce bill shock and have the highest correlation of cost recovery to benefits; Staff's 7 Year amortization period is arbitrary. Life time savings can differ from products and be influenced by location. Salt water at the Ocean City, NJ will impact energy efficiency products different from Mount Olive, NJ. A 7 Year amortization period may cause bills to peak earlier in the program, reducing the near-term net benefits generated. As the economy comes back rate-payers will make a choice on what to invest in and if the repayment is too high, they will not invest in energy efficiency. For example, if it cost too much to buy the hot water heater from an energy efficiency program then it is from buying the one in Home Depot the rate-payer will go to Home Depot. Amortization needs to be based on the needs of the utility and the territory it serves. If amortization does not fit a utility in New Jersey then it should be allowed to use another mechanism that works best for that particular utility.

Proper recovery of lost revenue from the mandated energy efficiency programs need to be properly considered. Conservation Incentive Program (CIP), lost revenue adjustment mechanism (LRAM), or full decoupling could work. CIP addresses revenues; it does not guarantee earnings. Utilities still bear the same risk on cost controls. For example, if costs go up from those set in the utilities last rate case, it will not earn its allowed return. LRAM has no benefit to utilities outside of energy efficiency investments and will not change culture away from increasing sales unlike a CIP style mechanism or decoupling would be able to provide.

With a proper ROE and proper recovery mechanism, utilities will be able to adequately invest in energy efficiency programs. Jobs will be created and economic recovery will happen faster for New Jersey. Energy efficiency jobs provide higher median hourly wages and greater union representation as compared to the rest of the U.S. workforce.[ix] More importantly, proper ROE and recovery mechanism will allow utilities to invest in low income communities and work with organizations that provide job training. Places like Camden, Trenton, and Newark where unemployment and underemployment are higher than the rest of the state will benefit from the investment of capital into the community. PSE&G's CEF-EE filing anticipates at least 3,700 direct energy efficiency jobs in PSE&G's service territory. PSE&G has committed to work with organizations like the Urban League and Isles to provide a direct pipeline for recruitment and training with a curriculum provided by PSE&G and vendors.

Recommendations:

1. Return on Equity – this must be maintained equal for all programs and the ROE must be competitive against other states and territories throughout the nation.
2. Utilities are best positioned to manage energy efficiency programs because of their direct relationships with rate-payers. Utilities can properly leverage their marketing to ensure LMI communities are included and able to access energy efficiency programs.
3. The new energy efficiency program should be more of a guideline similar to the Infrastructure Investment Program (IIP)[x], which does not discuss ROE. The program should allow for the utilities to determine what is best for their territories.
4. New Jersey already has the Conservation Incentive Program for gas utilities, by allowing the electric utilities to develop and use a CIP type of program but not force them into using it, if they do not see a need for it, would be a good start for energy efficiency programs. Since NJ Board of Public Utilities and the Rate-payer advocate already use CIP with gas utilities, there would only be a need to establish a CIP style for the electric utilities, for them to use if they want.
5. The focus of the energy efficiency programs should be to provide utilities the right tools with incentives so that they can meet and exceed the mandated targets in the Clean Energy Act of 2018, with the ability to spread the financing over a period of time that makes sense to them to mitigate the impact on ratepayers' energy bills.

6. If the targets in the straw proposal are to be true for year five of the energy efficiency program, fiscal year 2026, then a proper ROE and mechanism is needed to ensure those targets are met.

Conclusion:

For energy efficiency programs to be successful in New Jersey we need to be opened mined. The new program must incentive investors. The energy efficiency program needs to help in the low- and moderate-income communities, and utilities are poised and positioned best to help in these communities. Amortization must make sense for both rate-payers and utilities. A CIP type of program for the electric utilities may be best since New Jersey already has it for the gas sector. If New Jersey is serious about restarting its economy and truly making meaningful strides in energy efficiency then there can be no disparity between any program return on equity. The ROE needs to compete for finite capital that will be available post COVID-19 economy.

Finally, thank you to the New Jersey Board of Public Utilities for convening the stakeholder process and allowing public comments on the subject of energy efficiency. Energy efficiency will help to reduce energy consumption, can help restart the economy, create jobs, and invest in low- and moderate-income communities. The utilities in New Jersey are best suited and able to accomplish deploying energy efficiency with a proper return on equity and a recovery mechanism while delivering on the clean energy act mandate. The New Jersey Energy Coalition looks forward to continuing the dialogue on this important subject.

Thank you,

Erick A. M. Ford
Executive Director

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[i] Energy Efficiency: The Clean Facts https://www.nrdc.org/stories/energy-efficiency-clean-facts Accessed 3/31/2020

[ii] State-by-State Date, New Jersey https://www.usenergyjobs.org/ Accessed 4/2/2020

[iii] "Energy-Efficiency Companies Falter as COVID-19 Keeps Them Out of Customers' Homes" By: Tom Johnson https://www.njspotlight.com/2020/04/energy-efficiency-companies-falter-as-covid-19-keeps-them-out-of-customers-homes/ Accessed 4/10/2020

[iv] "Recognizing the Full Value of Energy Efficiency" Published 9/9/2013, By Jim Lazar and Ken Colburn; https://www.raponline.org/knowledge-center/recognizing-the-full-value-of-energy-efficiency/ Accessed 4/1/2020

[v] 2011 "Electric Regulation In the US: A Guide" Pg. 77

[vi] "How Much Does Energy Efficiency Cost?" https://www.energysage.com/energy-efficiency/why-conserve-energy/cost-of-ee Accessed 3/31/2020

[vii] "Energy Efficiency Impact Report", https://energyefficiencyimpact.org/general-insights/ Accessed 3/27/2020

[viii] "Energy Efficiency: The Clean Facts" https://www.nrdc.org/stories/energy-efficiency-clean-facts Accessed 3/31/2020

[ix]State-by-State Date, New Jersey https://www.usenergyjobs.org/ Accessed 3/30/2020

[x] On December 19, 2017, the Board adopted new rules for utility "Infrastructure Investment and Recovery" (IIP) to encourage utilities to implement infrastructure investments. The rules are codified at N.J.A.C. 14:3-2A.1 et seq. ("II&R Rules") and became effective on January 16, 2018

Comments on the Energy Efficiency Transition Straw Proposal Issued by the New Jersey Board of Public Utilities

Introduction

The New Jersey Environmental Justice Alliance[1] (NJEJA) would like to submit the following comments to the New Jersey Board of Public Utilities (NJBPU) on its Energy Efficiency Transition Straw Proposal (hereinafter referred to as "Straw Proposal"). The comments focus on New Jersey energy efficiency (EE) programs intended to serve low-income residents of environmental justice (EJ) and other communities.[2] NJEJA hopes this will be a prelude to a number of discussions with NJBPU on this topic. The Ironbound Community Corporation is also a signatory to these comments.

Systemic Structural Concerns

There is concern in the environmental justice (EJ) community that the structure of our current energy system is not conducive to delivering EE services to New Jersey EJ communities, i.e. Indigenous communities, Of Color communities and low-income communities. This concern extends to the delivery of EE to other communities as well but is especially acute for EJ communities. Much of this concern is caused by a heavy reliance on large conventional utility companies to deliver EE services. The utility industry is being asked by the state to implement programs that will reduce the demand for energy, which is their primary product.[3] This places the state in the problematic position of having to pay the utility companies for electricity they never actually produced in order to incentivize them to deliver EE services to any of the state's communities.[4] There is even less incentive to make EE available in EJ communities where relatively poor housing conditions can increase the costs of the services.[5]

Concerns Over Current Programming

These structural questions, coupled with EJ communities' historical experience with the current energy system and programs, lead to specific concerns about the programs currently providing EE services to low-income New Jersey residents. These concerns center on the difficulty of navigating the system and the extent of the services provided. The current low-income programs

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[1] The NJEJA mission statement reads as follows: "The New Jersey Environmental Justice Alliance is an alliance of New Jersey-based organizations and individuals working together to identify, prevent, and reduce and/or eliminate environmental injustices that exist in communities Of Color and low-income communities. NJEJA will support community efforts to remediate and rebuild impacted neighborhoods, using the community's vision of improvement, through education, advocacy, the review and promulgation of public policies, training, and through organizing and technical assistance."

[2] NJEJA thanks Melissa Miles of the Ironbound Community Corporation (ICC) for reviewing and editing these comments; and Dr. Cecilia Martinez of the Center for Earth, Energy and Democracy; and Prof. Ana Baptista, Ph.D., of the New School, ICC and NJEJA, for providing ideas and concepts reflected in these comments.

[3] *Energy Efficiency Transition Straw Proposal,* NEW JERSEY BOARD OF PUBLIC UTILITIES, DIVISION OF CLEAN ENERGY, at 10 (2020).

[4] *Id.*

[5] *See*, for example, *Cecilia Martinez, Environmental Justice and the Clean Power Plan: The Case of Energy Efficiency,* 41(3) WILLIAM AND MARY ENVIRONMENTAL LAW AND POLICY REVIEW 605, 627-630 (2017).

have at times been critiqued by members of the EJ community, and others, as being extremely bureaucratic with excessive amounts of paperwork and documentation.[6] The documentation and paperwork is viewed as making it difficult for low-income residents to enter the programs, stay in the programs and access the full amount of services offered by the programs. NJEJA firmly believes that documentation and paperwork issues are problems that can and should be addressed quickly. The extent of services delivered to low-income customers is a problem that may not only be rooted in paperwork but also in the cost of delivering services. Due to housing that may be in poor condition compared to housing in more affluent communities, the cost of delivering EE in EJ communities may be relatively high.[7] This could be a barrier to delivering anything but low costs services such as showerhead installation, lightbulb replacement and caulking. Relatively high costs may be an important factor in preventing delivery of more extensive services such as whole-building insulation[8], obtaining new energy saving appliances and boiler replacement. Even if a low-income customer's housing is not in poor condition the cost of the service left for the customer to cover could also be a barrier to entry and to more extensive services for a low-income New Jersey resident. Due to concerns about the structure and operation of current low-income EE programs, NJEJA would welcome the opportunity to examine data on the following questions: 1) how many residents do current New Jersey low-income programs service; 2) how many residents should be eligible for current New Jersey low-income EE programs based on income alone; 3) what is the race of residents enrolled in New Jersey low-income EE programs; 4) what percentage of New Jersey residents that apply to low-income EE programs actually complete the application process and gain entry into the programs; and 5) how many New Jersey residents who participate in low-income EE programs receive the more extensive EE services referenced above?

Some Solutions

There are several solutions that would most likely improve the current New Jersey low-income EE programming. More funding could be made available to address the energy needs of EJ communities so that cost is less of a barrier to accessing EE services. NJEJA suggests that at least 33% of funds derived from the Social Benefit Charge (SBC) should be devoted to EJ communities. This could make additional funds available to provide the more-costly EE services to low-income customers. These funds could also be used to support renewable energy projects in EJ communities. Income eligibility requirements need to be reviewed and it should be determined whether the entry level income threshold is too high and is excluding low-income residents who desperately need energy services. Consideration should also be given to using entry requirements other than income. Documentation and other requirements that result in burdensome and time-consuming paperwork, and other related tasks, should be reduced in all ways possible. However, from an EJ perspective, as important as providing more funds for, and changing the requirements of, current programs, is allowing and incentivizing community based

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[6] S*ee,* for example, the letter submitted by Katherina Miguel of Isles, Inc. and Erin Cosgrove of the Energy Efficiency Alliance of New Jersey to the New Jersey Board of Public Utilities on "Equity Implementation in New Jersey's Energy Efficiency Transition" in March 2020. The letter expresses some of the same concerns contained in NJEJA's comments concerning excessive documentation connected to qualifying for low-income EE programs in New Jersey.

[7] *See* Martinez, *supra* note 5, at 627-630.

[8] *Id. at 628* and *also see* Miguel and Cosgrove, *supra* note 6.

and community oriented organizations to become leaders in the field of low-income EE programming. The straw proposal seems to limit the primary providers of low-income EE services to the state and utilities[9], even though it may contemplate community based and community oriented organizations as contractors.[10] The topic of community based and community oriented organizations delivering EE, and other energy services, through state-funded programming to low-income and other EJ communities will be discussed in the next section of these comments.

Creation and Implementation of Low-Income EE Programs by Urban Community Energy Utilities and Community Organizations

Community organizations[11], including those focused on EJ issues, would have several specific advantages in delivering EE to low-income and other EJ customers that are not enjoyed by conventional utilities or state government. For example, a community organization that was created to work with, or is already working with, EJ communities would understand those communities better than utilities and state government. They would also not be conflicted over internal institutional goals as are the conventional utilities with respect to providing EE services. Many community organizations are well integrated into the communities they serve and know them well enough that they could cater their EE programs to that particular community. In prior comments that NJEJA submitted to NJBPU on the state's energy master plan, the idea of Urban Community Energy Utilities was raised[12] and it is done so again in these comments.

Urban Community Energy Utilities could be created at the community level and would be intended to comprehensively and coherently address the energy needs of a community. For example, these utilities could organize EE programs, organize energy related job trainings, perform community energy planning[13] on both a general level and for specific projects, and conduct energy-related community education. The general community energy planning conducted by the community utility could involve an energy assessment that answers questions about the energy needs of the community in which it is located and addresses community level energy issues. For example, does that community need a community solar project, does it need EE and do residents need more support to pay oil bills? What type of energy activities should be emphasized in this particular community? All of these questions and other similar questions could be answered as part of community energy planning conducted by a Community Energy

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[9] *See* Straw Proposal, *supra* note 3, at 21.

[10] The Straw proposal, *id.* at 26, does seem to indicate that "underrepresented and disadvantaged businesses" could become contracted service providers but does not discuss if it will take any steps to ensure that this occurs. NJEJA, of course, is advocating for community groups to create and implement low-income EE energy programs. However, it would also urge NJBPU to include requirements, or at least incentives, that increase the utilization of community organizations, and Of color and Women led businesses, as contractors in low-income EE programs.

[11] In the context of these comments the term "community organization" refers to community based and community oriented organizations that may or may not be incorporated.

[12] New Jersey Environmental Justice Alliance, *Comments on the Draft 2019 New Jersey Energy Master Plan,* prepared by Nicky Sheats, at 4 and fn #25 (September 16, 2019).

[13] Community energy planning has also been raised by NJEJA in prior comments submitted to NJBPU. *See, id.* at 1 and fn #3.

Utility.[14] A Community Energy Utility could also help create and administer[15] a local community solar project, if the energy assessment determines one is needed, and conduct community energy planning for that particular project. This project-oriented planning could obtain community input on where the project should be located or what co-benefits for the project should be emphasized such as job training or integrating the project as much as possible into the local school system. The Community Energy Utility could also be the vehicle that administers a community energy grid and ideally gather supplemental capital to invest in energy projects and activities in the neighborhood. But most importantly for the purposes of these comments, the Community Energy Utility could create and administer local EE programs. Due to the level of knowledge the Utility would have about the local neighborhood it could customize the EE program to the needs of the local community in various ways such as what type of EE services should be emphasized.

There are several more ideas that should be noted about the concept of Urban Community Energy Utilities. First, the development and implementation of local EE programs by community organizations and other non-profits should not be limited to these, as yet to be created, Utilities. Community based or oriented organizations that have knowledge of and work with an EJ community, and that have sufficient capacity, should be allowed to receive funding directly from the state to create and implement a local EE program. Second, Community Energy Utilities, and low-income EE programs in general, should not be limited to urban areas; they should also be created in rural EJ communities with energy needs. However, the initial expectation is that, due to the geographic location of many of the state's EJ communities, most of these utilities would be urban based. Third, the initial funding for the Community Energy Utilities could come from SBC funds, as well as other sources, and they could also raise their own capital to supplement state funds. And finally, the point to be re-iterated in the current context for these comments, is that the institutions that have the primary responsibility for creating and implementing state funded EE programs in New Jersey should not be limited to the state and to the large conventional utilities. NJEJA has raised fundamental questions about the structure of the system that currently creates and implements EE programs for low-income customers. NJEJA understands that it is unlikely that this structure will be fundamentally changed in the very near future. However, that does not mean that movement towards a more community friendly structure should not begin or be allowed at this point in time. The creation of several Urban Community Energy Utilities would be an important step in that direction. The state should move to create several such pilot projects. This concept was created by the Center for Earth, Energy and Democracy in Minneapolis, which is a close ally of NJEJA, and would be willing to consult on such a project. The Ironbound Community Corporation, which is a signatory to these comments, would be interested in serving as a project partner.

[14] NJBPU has introduced the idea of grants to governmental entities for community energy planning. This is a welcome initial concept to begin to move forward on the idea of community energy planning but the amount of the grants needs to be increased and they need to be made primarily available to community organizations so they can lead the community energy planning process. *See* the NJBPU website at https://www.njcleanenergy.com/cep.
[15] This could be done in collaboration with a private partner.

Evaluating EE Programs for EJ Communities

Some, if not most, of the techniques being suggested for program evaluation by the straw proposal (for example the establishment of utility specific QPI's[16] and cost-benefit analyses[17]) are heavily quantitative and will be very difficult to understand by EJ community residents, the advocates that work with them and many others. NJBPU runs the risk of losing support for these programs because evaluations may not be trusted, partly because they are so difficult to understand. NJBPU should simplify the evaluation methodology and make sure the general public can understand and work with it. NJBPU should also ensure that evaluation tools used for low-income EE programs include justice and equity metrics. These metrics could include, but not be limited to: 1) the number of low-income and Of Color residents enrolled in the programs; 2) the percentage of eligible low-income and Of Color residents enrolled in the programs; 3) a statistic that captures the extent of services received by low-income and Of Color residents enrolled in the programs; and 4) the amount of non-GHG reduction in EJ communities connected to low-income EE programs. Because science and quantitative methods (especially risk analyses) have often been used to justify, or at least support, the citing of polluting facilities in EJ communities there may already be some pre-existing distrust of these tools by EJ community residents. On the other hand, if a metric such as the amount of locally harmful air pollution reduced in EJ communities due to low-income EE programs can be used in a way that incentivizes such reductions, then the metric might be beneficial to EJ communities beyond its evaluation value.

Energy Equity Workgroup and Input from the EJ Community

While NJEJA supports the idea of an Energy Equity Workgroup[18], and would like to participate in the workgroup, in order to maximize participation from the EJ community as much as possible in the EE public participation process, NJEJA suggests that as many workgroups as possible should be consolidated. For example, in addition to an equity workgroup the straw proposal mentions a multi-family workgroup, Comfort Partners workgroup and other workgroups.[19] The EJ community does not have the capacity to participate in multiple workgroups whereas industry and large environmental groups could better handle such an intense level of participation. At the very least, combining the multifamily, Comfort Partners and equity workgroups would make substantive sense because they will all extensively address justice and equity issues. Combining other workgroups would give the EJ community a better chance of participating in key non-equity focused workgroups that could nonetheless also impact equity concerns. NJEJA would also be interested in participating in any "informal process"[20] that could impact decisions on justice, equity and EE in New Jersey.

[16] *See* Straw Proposal, *supra* note 3, at 33-36.
[17] *Id.* at 50-52.
[18] *See* Straw proposal, *supra* note 3, at 29.
[19] *Id.*
[20] *See Id.* at 9.

Conclusion

NJEJA and partners look forward to interacting with NJBPU on the ideas contained in these comments.

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Date:
April 13, 2020

Straw Proposal for New Jersey's Energy Efficiency

and Peak Reduction Programs

Comments of the New Jersey Large Energy Users Coalition

The New Jersey Large Energy Users Coalition ("NJLEUC") appreciates the opportunity to provide these comments regarding Board staff's Straw Proposal regarding the future provision of energy efficiency and peak demand reduction programs under the Clean Energy Act, P.L. 2018, c.17 ("CEA").

We commend the staff for producing a Straw Proposal that represents a thoughtful, holistic and realistic vision for the future provision of Office of Clean Energy ("OCE") and utility-administered energy efficiency and peak reduction programs that is long overdue. For too many years, the administration of the OCE programs has not sufficiently emphasized program and market analysis, program evaluation and measurement, and marketing campaigns directed at targeted customer groups. We believe that if adopted, the Straw Proposal could carve a path for the State to achieve the CEA's aggressive energy efficiency and peak reduction goals.

In particular, we support the Straw Proposal's "core objectives" to provide program opportunities in an equitable and consistent manner to all ratepayers, and to assure that all offerings are cost-effective and protective of ratepayer interests. This will be a critical factor for the Board, the State and the utilities to address in the current COVID-19 environment. The world has changed dramatically since this stakeholder process began and this process must fully take into account the economic pain that is now only beginning to be felt by the citizens and businesses of the State, and the impacts the economic downturn will have on the near and long term implementation of these programs.

The Board and State cannot plan the energy efficiency, peak demand reduction and other energy programs in a vacuum, assuming that plans and goals deemed reasonable as recently as only a month ago can necessarily be viewed in the same light today. The citizens and businesses of the State will be hurting economically and this new reality will have significant ramifications for many of the issues discussed throughout these stakeholder proceedings. Businesses are enduring slow-downs and temporary closures, furloughing employees and suffering depletion of needed capital. Some will fail and, of necessity, all will be more selective in how they prioritize their future expenditures and investments. Residential customers find themselves unemployed and uninsured in increasing numbers and savings are rapidly being depleted. Retired people are concerned about their 401(k)s. As a result, the ability and willingness of ratepayers of all classes to participate in and fund these programs will now be an issue that the State will have to address through the lens of this new reality. Ratepayers will be unable and unwilling to support programs that deliver large rate increases, and will have little tolerance for programs and policies that provide excessive compensation and regulatory perks to the utilities, or are perceived to be detrimental to ratepayers.

The world has changed dramatically since this process began. The new normal cannot be ignored.

General Observations Regarding the Straw Proposal

NJLEUC agrees with the Straw Proposal that the Board and OCE must maintain active oversight responsibilities regarding program planning, management and evaluation. The Board's active role is necessary to assure that to the greatest extent possible, the programs offered by OCE and the utilities are viable, well-researched and vetted, cost-effective, aggressively marketed and

consistently implemented on a statewide basis. Program results must also be effectively measured and verified on a regular basis through application of properly balanced evaluation metrics. As the Straw Proposal acknowledges, several of these fundamental elements of program administration have not been adequately addressed in the past. With the enactment of the CEA, however, the time has come for all of these elements to coalesce into a suite of energy efficiency and conservation programs needed to achieve the State's energy usage and peak reduction goals.

Centralized planning and statewide coordination remain critical to assuring (i) uniform program administration that avoids customer and vendor confusion caused by inconsistent program rules and requirements, (ii) enhanced efficiencies and attendant cost savings, and that (iii) the OCE and utility programs complement, rather than compete with each other. Program development, approval and review should occur as part of the Board's continuing triennial review process. That process should include the full participation of OCE, the utilities, Rate Counsel and interested stakeholders to assure that all programs are developed, approved, implemented, reviewed and, as necessary, modified or eliminated utilizing the metrics adopted for the programs and guided by the Straw Proposal's core objectives regarding ratepayer protection.

Programs should be thoroughly evaluated, vetted and supported by adequate research regarding the relevant customer and demographic markets before implementation, to enable the Board to gauge the programs' effectiveness and acceptance by program participants. Research also should inform decisions regarding the incentives needed to affect customer behaviors (including minimization of free-ridership and increasing incentives when appropriate) and assure that program elements properly align with customer requirements and current circumstances. Such customer-focused research should test the Straw Proposal's assumptions regarding the future

additional savings potentially achievable from various customer classes, and identifying those appropriately considered "low hanging fruit" capable of significant energy reductions.

All program-related issues, including consideration of additional programs proposed by the utilities, should be resolved and the effectiveness of the programs fully assessed before the utilities are permitted to make their three year filings for new programs and initiatives. OCE, not the utilities, should make programmatic decisions, aided as required by a collaborative process involving independent third party program managers. We must recognize the obvious--the utilities will have a significant financial interest in these programs. Past experience demonstrates that the utilities will make substantial investments for which they will request a return, administrative and management fees, incentives and others financial and regulatory perks, all of which make these programs expensive for ratepayers. The Board must properly resolve the utilities' cost recovery mechanisms, addressed below, to achieve the ratepayer protection goals that are at the heart of this process.

We agree with the Straw Proposal that the measurement and verification of all programs must be comprehensive and ongoing, using consistent protocols, metrics and verifiable data, and should include an evaluation of the performance of program managers, administrators, utilities and implementers. As discussed below, performance metrics should be based upon appropriate factors, properly weighted and consistently applied, particularly with regard to cost-benefit analysis. All evaluations should be performed by independent third parties with no financial or other interest in the development or delivery of the programs they review. Under no circumstance should evaluations be conducted by the entities whose performance is being evaluated. There should also be meaningful opportunity for customer input to foster an exchange of current market data, information and comment, particularly by customers who are the intended beneficiaries of the

programs. Such feedback would assist in determining, among other things, proper incentive levels and whether program elements and requirements for targeted customers require modification.

We believe that the Straw Proposal represents a significant step forward in addressing these issues. We again commend Board staff for producing a well-considered, comprehensive and balanced approach to each of these elements, which will help insure the future success of these programs. The balance of these comments will assess certain issues of particular importance and areas where we believe the Straw Proposal may be improved.

Cost Recovery

NJLEUC congratulates staff for producing a Straw Proposal that presents a viable and properly balanced solution to utility cost recovery for the energy efficiency and peak reduction programs undertaken pursuant to the CEA. Assuring successful programs requires striking a proper balance between appropriate compensation and incentives to the utilities to promote the programs on the one hand, and adequate protections, cost savings and other benefits to customers that participate in the programs on the other. NJLEUC believes the Straw Proposal achieves this delicate balance and we appreciate that BPU staff clearly heard the message conveyed by NJLEUC, Rate Counsel and the numerous other stakeholders who are not aligned with the utilities.

The proceedings devoted significant time and attention to the cornucopia of financial and regulatory perks that certain utilities suggest are necessary to "align" their interests with the CEA's (*mandatory*) energy efficiency and peak reduction goals. These utilities set a high bar for their "cooperation" demanding, among other things, (i) accelerated cost recovery, (ii) a return of and on their considerable—in some cases multi-billion dollar--investments, (iii) a high return on equity that does not reflect the low-risk nature of these investments, (iv) generous administration and management fees, and (v) rate decoupling. The Straw Proposal properly rejects the demand for

rate decoupling and instead offers a fairly balanced program of cost recovery and financial benefits, including lost revenue recovery and incentives, which by any reasonable measure would more than adequately compensate the utilities for their efforts. Accordingly, we urge staff and the Board to stay the course and, subject to certain proposed revisions addressed below, approve the Straw Proposal's cost recovery provisions.

Rate Decoupling

In this proceeding, certain utilities and their aligned parties have continued their decade-long quest for rate decoupling, a rate recovery mechanism that would set aside a century of ratemaking principles—most of which designed to protect ratepayers—and for the first time afford the utilities *guaranteed* annual revenues regardless of the amount of energy they provide to customers. The generalized form of rate decoupling the utilities seek would hold them harmless against revenue losses associated with all reductions in energy usage that occur on their systems, regardless of whether the reductions are in any way attributable to the utility's energy efficiency and conservation efforts.

Given the current, rapidly deteriorating economic environment in the State and worldwide, the utilities' continuing demand for rate decoupling should concern policymakers and elected officials. Stated simply, if the Board adopted the requested decoupling regime, the utilities would receive full credit not only for decreases in energy usage attributable to the utility programs, but also all decreases caused by the economic downturn, including decreases associated with business retrenchments, closures and relocations, bankruptcies and customer migration, these in addition to decreases attributable to changes in weather patterns, customer self-directed energy conservation

efforts, and the energy conservation efforts of unaffiliated third party energy service companies and demand response providers.

Thus, if the "non-essential" businesses that have been closed by order of the Governor consume little or no energy during closure and/or are ultimately unable to continue to operate, decoupling would fully compensate the utilities for these load reductions. If retired persons and newly unemployed residential customers are forced to turn off heating equipment, air conditioners, lighting and other appliances to reduce their utility bills, the utilities would similarly receive compensation for their reduced usage. In all cases, however, ratepayers still receiving service would pay rates upwardly adjusted to allow the utilities to recover their guaranteed revenues.

Even in good times, the guaranteed annual revenues afforded a utility by rate decoupling represent a tough pill for ratepayers to swallow. Because of the widespread opposition that rate decoupling proposals have consistently generated, for the last decade both the Board and Legislature consistently have rejected this regulatory give-away. It should go without saying that any proposal to adopt rate decoupling during a recession should be dead on arrival. No other business operating in New Jersey enjoys this type of financial lifeline and the utilities should be no different.

The Board should look to the experience of the State of Maine, which introduced rate decoupling right before the onset of the 2008 recession. The decision to institute rate decoupling resulted in a huge and unjustified windfall to the state's utilities and proved to be a significant political embarrassment to the administration. The decision was quickly reversed. New Jersey should learn from this mistake and not repeat it.

The Board also should recall that rate decoupling has been requested in a number of utility regulatory and rate proceedings on the premise that the utilities "had to have" decoupling to make

large infrastructure and other investments. Although the Board consistently rejected these requests, we note that the absence of rate decoupling has not prevented these utilities from aggressively pursuing billions of dollars in all manner of investments—representing perhaps the best example of an avoidance of "free ridership", e.g. the utilities pursued these programs without decoupling which, if implemented, would clearly have overcompensated the utilities for these programs.

As noted in our prior comments, because decoupling increases rates to offset reduced energy usage, but reduces rates to offset increased usage, decoupling has the clear potential to provide a *disincentive* to large C&I customers—viewed by all as the energy efficiency "low hanging fruit"—to pursue energy efficiency projects. To illustrate the point, consider the procedure typically used by energy managers for these customers to propose potential projects to their managements. Energy managers typically prepare presentations that propose the introduction of well-defined measures, project the anticipated energy and cost savings and other benefits expected to be derived from the measures, and estimate the payback period in which the investment will be recouped. These projections are generally highly accurate and are relied upon by managements to provide the basis for their decisions whether to pursue particular projects.

If the utilities' proposed decoupling regime were to be adopted, it would upend this process as energy managers could no longer assure their managements that the projected savings would actually be realized over time. This is so because, due to the decoupling mechanism, the customer's energy spend could *increase*, rather than decrease, in subsequent years because the utility's rates would automatically increase to offset utility losses attributable to the introduction of energy conservation measures by the utility's customers. Without the certainty that its energy efficiency efforts would yield lower energy costs, the company likely would forego the opportunity. Conversely, businesses could easily elect to forego costly investments in conservation measures

entirely once they understand that in a decoupling regime, *increases* in customer usage on the system could result in rate *decreases* in subsequent years. Thus, from the customer perspective, rate decoupling offers perverse incentives that do not align the customers' interests with the energy efficiency programs.

Accordingly, rate decoupling has the potential to remove or significantly limit the incentive for large commercial and industrial customers to engage in these projects, undermining the success of the programs. For these reasons, NJLEUC strongly urges Board staff and the Board to stay the course and reject the proposal to adopt rate decoupling as part of this process.

As further discussed below, the Straw Proposal approach to utility cost and lost revenue recovery represents a far better and more balanced approach that better aligns the interests of all parties in furthering the State's energy efficiency and conservation goals. It will be imperative for the State to foster an "all hands on deck approach" to energy efficiency and peak demand reduction if the CEA's aggressive goals are to be achieved. This will only occur if all stakeholders are on board with the effort. The Straw Proposal embodies the proper regulatory balance that will be required to advance these programs.

NJLEUC offers the following additional comments regarding certain specific utility cost recovery recommendations contained in the Straw Proposal.

Carrying Costs for Investments

The Straw Proposal recommends that the utilities' return on equity for energy efficiency and peak demand reduction investments should reflect a 100 basis point downward adjustment to the ROE approved in each utility's last base rate case. Board staff's previous straw proposal recommended a 200 basis point adjustment. An adjustment is appropriate for these no/low risk

investments and NJLEUC continues to urge that the 200 basis point downward adjustment is the appropriate one.

As the Straw Proposal properly notes, the availability of accelerated rate recovery for energy efficiency investments dramatically decreases the risk of recovery normally associated with utility investments. Recovery of the investments would otherwise occur in rate cases that can occur years after the investments are made and include prudence reviews, which underscores that recovery of these investments in this manner is by no means assured. By way of contrast, under an accelerated rate regime, utilities would be able to recover their investments literally as they occur, with little risk that after-the-fact prudence review in the utilities' next rate case will result in disallowance of the investments. We expect that this would be the case with these programs as the investments are mandated by the CEA.

Given this, no reasonable argument can be made that the utilities should receive a "risk premium" for what are essentially no-risk investments. We agree with Board staff that the risk argument is further undermined by the fact that energy efficiency and conservation programs are less risky than traditional utility infrastructure investments which involve construction-related risks and attendant concerns whether the assets will ultimately be deemed to be used and useful.

Finally, the fact that New Jersey law permits utilities to provide and invest in energy efficiency and conservation programs on a regulated basis and to include those investments in rate base—which enables the utilities to earn a full return of and on their invested capital--distinguishes New Jersey from other states that do not afford similar treatment to utility investments. Therefore, as the Straw Proposal notes, it is important to implement limitations such as the reduction in ROE to prevent potential over-earning on these investments. NJLEUC urges the Board to reduce, by

200 basis points, the utilities' ROE on energy efficiency and conservation-related investments under these programs.

Rate Caps

NJLEUC agrees with the Straw Proposal that the rate impacts associated with energy efficiency and conservation investments must be closely monitored as it is evident that the utility programs have the clear potential to be very costly to ratepayers. Indeed, as proposed, the PSE&G Clean Energy Future program alone would cost ratepayers in excess of $2.5 billion.

While we understand Staff's concern that the imposition of rate caps in the near term could hinder the Board's ability to achieve program goals, we urge Staff to reconsider this position, particularly in light of the current economic crisis. The potential cost impact of these programs on ratepayers cannot be overstated. In separate comments, we noted that while the statutory 9% to 7% cap on solar investments is well intentioned, at 9% the cap would still result in approximately $1.8 million in additional costs per year for at least one NJLEUC member. Thus, even capped rates can impose considerable burdens.

At a minimum, we encourage Staff to avoid artificial time deadlines for the potential imposition of caps and to react quickly to large rate increases that have the potential to harm struggling ratepayers across all classes. Given the other expensive energy programs already approved, whose costs will be "pancaked" on top of those adopted through this process, we urge adoption of appropriate rate cap to control rates and mitigate rate shock. We underscore that the cap should be established as a percentage of a utility's distribution rates rather than a percentage of the customer's total bill. It is important for the Board to avoid establishing the unnecessarily high ceiling for rate increases that would result from a "total bill" approach, which would include

supply-related and other charges unrelated to the energy efficiency programs and the delivery of energy.

Rate caps should be acceptable to all stakeholders, given the arguments made regarding the reductions in rates that are projected to occur from implementation of energy efficiency and conservation measures. Curiously, the same stakeholders heralding the energy and rate reduction potential of these programs have opposed rate caps, which would lend credence to their projections and give the proponents some needed skin in the game. As discussed earlier, ratepayers must realize some quantifiable, tangible benefit from reducing their energy consumption, otherwise the utilities' energy efficiency programs will wither on the vine. Rate caps represent one means of preventing utility incentives under "successful" programs from having the perverse effect of wiping out any consumption-related cost savings for consumers.

Lost Revenue Treatment

NJLEUC strongly supports the Straw Proposal's lost revenue proposal. The Straw Proposal is entirely consistent with the cost recovery provisions contained in the CEA and demonstrates that Staff has heard the concerns expressed by ratepayers regarding the clear potential for over-compensation and financial windfalls under the lost revenue/rate decoupling proposals that have been advanced by certain utilities and their supporters. We fully agree with the underlying premise of the Straw Proposal that the utilities should receive appropriate compensation for their efforts, including potential incentives to reward performance that advances the State's energy goals. Regarding lost revenue recovery, however, the CEA is clear that the utilities should be compensated only for those revenues lost as a direct result of their energy efficiency and peak reduction programs and not for reductions caused by third parties and other exogenous factors. We

incorporate by reference our past comments and those above regarding the undesirability of rate decoupling and will not repeat those comments here.

As businesses, we understand the disincentive that exists for utilities to implement programs designed to reduce their customers' energy usage. We also recognize that the CEA *mandates* utility participation in these programs and requires the utilities to achieve the CEA's energy usage reduction targets or face potential penalties. That said, the Straw Proposal strikes an appropriate balance in addressing the revenue erosion issue by making the utilities whole for all provable losses directly attributable to the utilities' conservation efforts. We believe that as a matter of fairness it is appropriate to afford the utilities the lost revenue protection proposed in the Straw Proposal—but *only* the proposed lost revenue protection protection—which would reimburse the utilities for all of their *actual*, *provable* losses, precisely what is mandated by the CEA.

It bears noting that the proposed lost revenue treatment should not be viewed in isolation, but rather as part of the overall package of financial benefits and incentives that would be afforded to the utilities under the Straw Proposal. In addition, RGGI Section 13, N.J.S.A. 48:3-98.1, permits utilities to include their energy efficiency investments in rate base and to earn a return of and on those investments, a generous rate treatment which is unavailable to utilities in other states that have adopted the form of rate decoupling the utilities seek.

The fact that the CIP program has achieved its desired effects and successfully transformed the behavior and culture of the two participating gas utilities provides a strong basis to assume that the proposed "limited form of decoupling", when combined with the other proposed financial and regulatory benefits and incentives, will be sufficient in this context as well. No sound justification exists for compensating the utilities for reductions in usage that occur for reasons completely

unrelated to their energy efficiency and conservation initiatives. However, this is precisely what utilities seek through rate decoupling. Nor is it unreasonable to require the utilities to annually quantify the actual revenue losses they incur as a direct result of their efforts.

To New Jersey's business community, the concept of guaranteed revenues is completely alien to the competitive world in which we operate, and is roundly rejected because we consider it singularly inappropriate and unnecessary to further bolster the profits of the State's utilities. If businesses pursue their own self-directed energy efficiency projects without utility involvement, why should the utilities be credited for the lost revenues that result from our efforts? Now that the economy is in recession, why should utilities be held harmless from revenue losses that are solely attributable to the downturn in the business cycle? The short answer is they shouldn't. Just as we would not be expected to pay commissions to salespersons who are not involved in our purchases, or to be paid for goods we don't produce, we should not be expected to compensate utilities for reductions in energy usage that are not traceable to their efforts. The Straw Proposal correctly rejects the utilities' attempted regulatory over-reach and the Board should adopt Staff's approach, which is fully consistent with the unambiguous language of the CEA.

NJLEUC supports the proposed requirement that utilities file rate cases no later than five years after the commencement of an approved energy efficiency transition program to reset lost revenue calculations. Utilities that seek authorization for rate decoupling should do so only in the context of a rate case, so that the request can be analyzed as part of a complete review of all aspects of the utilities' finances and operations, as opposed to the highly disfavored "single issue ratemaking" approach sought here.

We also support the Straw Proposal requirement that earnings tests occur as part of the calculation of lost revenues. Given the multiplicity of utility programs currently in place and in the

pipeline, and the "innovative" rate treatments that have been authorized for many of them, it is imperative that the Board actively monitor utility earnings to assure that the ROE calculated in these periodic reviews does not exceed a utility's allowed rate of return from its previous rate case. As we have seen in the past, a utility that is over-earning its authorized return has no incentive to bring a rate case, as it would reveal the utility's actual earnings. It is therefore important that the Board require rate reviews to occur on a regular basis, as part of the utilities' annual lost revenue filings. The Straw Proposal recommendation to deny lost revenue recovery to a utility whose earnings exceed its allowed ROE by 50 basis points or more is an appropriate and thoroughly defensible condition to impose in these circumstances. Fairness dictates that a utility that is already over-earning its allowed rate of return clearly should not receive lost revenue recovery.

The Straw Proposal recommendation to review the cost recovery mechanism three years after the commencement of the energy efficiency transition programs should provide comfort to the utilities and ratepayers that the recovery mechanism will be re-examined to assure that it appropriately balances the interests of all stakeholders and provides the necessary incentives to all parties to insure a successful program. The review would presumably afford the parties an opportunity to take a timely second look at any deficiencies identified and make mutually acceptable adjustments.

Performance Incentive and Penalty Treatment

NJLEUC does not have independent knowledge regarding incentive and penalty regimes that have proven successful elsewhere in motivating utilities to devote their best efforts to support energy efficiency programs. That said, it appears that the recommendations set forth in the Straw Proposal have merit and we are generally supportive of this approach.

The proposal to rely primarily on adjustments to the risk-adjusted ROE allowed on program-related investments appears to be a valid approach to utility over and under-performance within the established ranges. We agree that the penalty for non-compliance should be more stringent and support the use of a percentage-based penalty assessed against a utility's base rate distribution revenue, recognizing that this could be a considerable sum. It is assumed that a penalty assessed against a utility's base rate distribution revenues will motivate utilities to comply with the energy usage reduction targets established by the CEA. We agree that fixed monetary penalties could inordinately penalize smaller utilities and that percentage-based ROE adjustments represent a more equitable alternative.

The bottom line issue is whether the proposed system of incentives and penalties will be sufficient to change utility behaviors in the desired manner. This can only be known with certainty after the programs have been implemented and these behaviors can be observed and assessed. If adopted, the Board should actively monitor the initial incentive/penalty structure set forth in the Straw Proposal. Should this approach prove overly generous or unduly punitive, the Board should make appropriate adjustments in the context of an appropriate stakeholder process.

Weighting of Evaluation Metrics

The CEA establishes electric and natural gas usage reduction goals for the State's utilities that are presented as aggressive but achievable. The Straw Proposal proposes energy reduction targets for each of the utilities, as well as the metrics and quantitative performance indicators that will be utilized to evaluate the utilities' performance in achieving their targets. Subject to our comments below, the metrics set forth in the Straw Proposal appear to be appropriate and should

assure that the programs implemented under the authority of the CEA will be well-conceived and properly implemented.

The Straw Proposal recommends the adoption of "multi-factor metrics" that will enable the Board and utilities to focus on the myriad impacts of the energy efficiency programs to achieve a "holistic" set of near and long-term program benefits. While the reference to "holistic" benefits relates to a macro analysis of the energy efficiency programs generally, as we stated in our prior comments, we also consider it important that the concept of "holistic" benefits be adopted at the customer level, and require that a comprehensive approach be adopted for all energy conservation projects implemented by customers of all rate classes.

The CEA establishes challenging energy reduction goals and a system to reward or penalize utilities based on their performance in achieving the specific goals established for them. Given the proposed system of penalties and rewards, the utilities may, at least initially, concentrate on projects that represent the "low hanging fruit"—e.g. the projects easiest to implement that provide the most bang for the buck. LED lighting projects fall within this category as they are easy to accomplish, significantly reduce energy usage and provide a quick payback of the capital invested. For larger customers, equipment such as chillers also falls within this category.

While understandable, this approach would omit other measures that require upgrades or replacements as part of a more comprehensive approach designed to maximize energy and cost savings. The problem with a lighting-only approach is that once the lighting fixtures are replaced, it becomes far more difficult, from a cost-benefit/payback perspective, to later "go deeper" with a second, more complete round of energy efficiency measures that would include equipment such as HVAC and building automation systems, variable speed motors and the like. This equipment is more expensive and has significantly longer payback periods than lighting and could be perceived

as unattractive investments if pursued on a stand-alone basis. A far better approach would bundle these measures into a single project with lighting fixtures and chillers, as together they would represent a viable project having a reasonable payback period that would pass cost-benefit analysis and maximize customer savings. This is the type of approach that must be encouraged to achieve the CEA's goals. The "low hanging fruit-only" approach would leave a significant amount of potential energy savings on the table, likely permanently.

The Straw Proposal recommendations should encourage a holistic approach to energy usage reduction at the customer level and appropriately reward utilities that adopt it. The Board should consider how utilities could be afforded additional credit for "going deep" and not simply pursuing the easy measures that provide a quick payback. This could be accomplished through the weighting system described in the Straw Proposal.

We agree with the Straw Proposal's concept of emphasizing the consistent use of appropriate metrics that best support State policies and encourage investment in programs that produce the best overall results, reach all intended constituencies, and bring true value to customers and the State. As noted above, it is important that customers obtain tangible benefits from the energy efficiency programs in which they participate. These considerations will be extremely important in a recessionary environment when customers are strapped for cash less likely to make investments that may now be perceived as more of a luxury than before.

The Energy Resilience Bank hospital projects provide a good example of how the multi-factor/weighting approach has been successfully utilized. The ERB's project scoring methodology relies on numerical values that are assigned to multiple project evaluation criteria and associated multipliers that reflect the weight assigned to each criterion. The evaluation criteria include price, comprehensiveness of proposal, project understanding, overall value, creativity, demonstrated

qualification to pursue the project and similar factors. While price is a heavily weighted factor (a HUD/EDA requirement), a low bid can be outweighed by strong scoring in the other criteria, which are designed to assure that significant value is assigned to proposals that offer well-conceived, holistic solutions by highly qualified vendors. This system has worked well and has encouraged the development of comprehensive energy solutions for participating hospitals, as opposed to simply awarding contracts for less comprehensive projects with lower costs.

The same type of approach could readily be applied to the energy efficiency and conservation programs and projects under the CEA. Minimal values could be assigned to lighting-only projects. Higher values with appropriate multipliers could be assigned to more comprehensive projects based on their potential to achieve maximum energy and cost savings and efficiencies or to achieve other CEA goals. The utilities have touted their access to customer data, customer relationships and expertise in identifying and directing customer energy efficiency projects as a reason to entrust them with these programs. Accordingly, it would be fair and appropriate to evaluate their performance in this manner.

We encourage the Board to adopt the approach recommended by the Straw Proposal for customer energy efficiency and conservation projects as we believe it will maximize the results achieved on a least cost basis.

Benefit/Cost Analysis

Subject to the comments below, NJLEUC generally supports the approach adopted by the Straw Proposal for Benefit Cost Analysis and Cost Effectiveness Testing. The approach, if applied to all energy efficiency and conservation programs on a consistent basis, would fill a void that has long existed and whose absence has prevented the Board from effectively gauging the merits, costs

and impacts of the various OCE and utility programs in this space. Given the many billions of dollars that have been spent on these programs over the years, and the fact that responsibility for the OCE programs will now be divided between the State and the utilities, it is vital that an appropriate regime be put into place that will place the programs under a well-conceived financial and policy advancement microscope and provide a lens through which the merits of individual State, utility, and co-administered programs can be accurately assessed and their results compared with each other based on a common set of approved metrics.

We recognize that the CEA requires the utility programs to have a benefit-to-cost ratio of greater than or equal to 1.0 at the portfolio level. This is appropriate because policy directives may require the implementation of certain programs that offer a lesser payback or have increased costs vis-à-vis other programs and may not satisfy the 1.0 figure on an individual program basis. However, it remains important that the benefit-to-cost analysis also be applied on an individual program basis, if for no other reason than to assure that all programs are viable and are producing their intended benefits in a cost-effective manner. It is important that the Board be able to accurately compare the results of all programs, regardless of who is charged with their administration, to determine if a program is achieving its goals, requires modification or should be terminated. This type of analysis has not been conducted on a consistent basis to date. Given the enactment of the CEA, this is an approach whose time has certainly come.

In general, we view the various elements of the California Standard Practice Manual ("CSPM") as relevant to the analysis, particularly the Ratepayer Impact Measure Test which would assure continuing focus on the effect of implementation of these programs on rates, and equity issues as between participating and non-participating customers. These factors will be a critical consideration in this recessionary environment.

We are concerned, however, about the potential adoption of a Resource Value Test ("RVT") as the primary test required by the CEA. As described, the RVT would emphasize cost-effectiveness more from a regulatory perspective and less from the perspective of actual participant and ratepayer impacts. According to the Straw Proposal, the RVT's focus would be "based on principal objectives, providing customers with safe, reliable, low-cost energy services, and is designed to additionally incorporate other relevant policy objectives". While we have no issue focusing on a program's ability to provide safe, cost-effective services, we are concerned about the inclusion of "intangible" factors, such as the environmental costs, improved health outcomes and economic development impacts that are part of the Societal Cost Test component of the CSPM. Such factors could skew study results and lead to findings of 1.0 benefit-to-cost ratios that are, at best, questionable.

We acknowledge that "non-energy" benefits such as reduced greenhouse gas emissions, improved air quality, improved human health and improved ecosystem health are valid, important and appropriate considerations to take into account in a benefit/cost analysis. At the same time, we caution that care must be taken in establishing the weight assigned to these factors. While the Straw Proposal correctly notes that excluding such benefits could result in under-estimating the value of energy efficiency and peak demand reduction programs, the converse is also true, e.g. that over-valuing such benefits could result in over-estimating the value of the programs. In an extreme case, if these intangibles are given inordinate weight, this could justify literally any program, regardless of its underlying merit.

Similarly, assuming the "economic factors" that are measured include economic development and job creation traceable to the implementation of these programs, the analysis also should include an analysis of potential negative impacts of the programs on the State economy and

attendant job losses from increases in energy costs. It would be a mistake to assume that these programs will only cause economic expansion and creation of "green" jobs, as these gains could be offset by losses of traditional manufacturing and service jobs due to increased energy costs. This element therefore must be based upon a holistic, economy-wide impact analysis for it to meaningfully and accurately contribute to the benefit/cost analysis.

The Straw Proposal indicates that in the coming months, Board staff will work with stakeholders to develop an appropriate "primary" benefit/cost test as mandated by the CEA. We support developing the test through a collaborative stakeholder process. It will be necessary to obtain the input of all affected stakeholders, and to take measure of the State's economy on a current basis to develop a test that properly weighs the benefits and costs identified in the Straw Proposal. NJLEUC looks forward to participating in this process.

State versus Utility Management of OCE Programs

NJLEUC offers the following additional comments regarding the assignment of responsibility for the administration of the Large Energy Users and Combined Heat and Power/Fuel Cell Programs:

Large Energy Users Program

The Straw Proposal recommends that the Large Energy Users ("LEU") Program be administered by the utilities as a Utility-Administered Core Program. The argument that utility management of the program would be superior to the current OCE/TRC model is based on (i) the utilities' existing relationships with their customers, (ii) access to their customers' energy usage data, (iii) the knowledge gained by utility representatives regarding their customers' businesses

and patterns of energy usage, and (iv) the utilities' ability to offer innovative financing arrangements such as on-bill financing. The combination of the utilities' access to customer energy usage information and their ongoing customer interactions allegedly affords the utilities unique knowledge and insights regarding their customers, and qualifies utility customer representatives to take a comprehensive approach to managing large customers' energy consumption and to help these customers make informed decisions about savings opportunities.

In our prior comments, which are incorporated by reference and will not be repeated, the members of NJLEUC took issue with these assumptions and in particular the thought that utility representatives are qualified and sufficiently familiar with their customers' operations to enable the representatives to provide meaningful and informed assistance in developing and implementing energy efficiency and conservation measures and projects. Based on our collective experiences, this assumption significantly overstates the case, at least from the perspective of the State's largest businesses. These are the businesses which, through NJLEUC, were the architects of the LEU Program with TRC and Board staff, and are its primary focus.

We have not changed our view that the utilities would be like the proverbial "fish out of water" if they attempted to provide this type of assistance to large businesses. Accordingly, our members have expressed strong reservations regarding the proposed transfer of management responsibility for the LEU Program to the utilities. For the reasons set forth below, we would encourage BPU staff to reconsider the recommendation set forth in the Straw Proposal and categorize the LEU Program as a State-Administered Core Program. In the alternative, we would respectfully recommend that the LEU Program be included in the suite of Co-Managed Core Programs or, at minimum, provide for enhanced and active Board oversight of project development and decision-making by the utilities for large energy user projects and a mechanism for large

customers to expeditiously address program-related issues involving the utilities directly with the Board.

As the Straw Proposal recognizes, focusing future efforts on the commercial and industrial sector is justified because there remain significant energy efficiency and conservation opportunities to pursue. As the Board has repeatedly recognized, large energy users consistently produce the most significant returns on investment for energy efficiency and conservation measures. However, as noted in our prior comments, because the State's largest companies were early adopters of energy efficiency, and have already developed a significant number of projects over the years, at this juncture it has become increasingly difficult for these customers to identify additional projects that will achieve further efficiencies.

Therefore, the adoption of the LEU Program years ago reflected a recognition of the obvious--that large customers have an intimate and unique knowledge of their own facilities and are best positioned to determine for themselves, based upon engineering considerations and company business plans and policy directives, where additional savings opportunities may be found. It was also recognized that large energy users needed a freer hand to develop energy conservation projects, which increasingly rely on the use of custom measures. This flexibility was provided through "light-handed" regulation by the OCE and TRC, which relaxed certain requirements and procedures otherwise applicable to OCE programs designed for businesses. The LEU Program has provided this flexibility and has been the source of funding for numerous large, often unique projects that have been carefully tailored to address the specific requirements of these companies.

In a word, NJLEUC members do not believe, based on their prior experiences, that the utilities add value here or that the proposed transfer of authority to them from the OCE and TRC

would improve the LEU Program or maintain the status quo. These businesses report significant and largely positive experiences working within the existing LEU Program and they would like to see it expanded. The companies expressed a lack confidence in the ability of their utility customer representatives, who are not engineers and have not received needed technical training, to analyze and understand their businesses and to make the type of creative energy conservation recommendations that are now required. No members believe the utilities are capable of providing this type of guidance and prefer that the process of identifying and implementing energy efficiency projects continue to be customer-driven. While the members would be receptive to the utilities recommending potential projects, the companies would resist being obligated to pursue such projects if, in their view, the projects are undesirable for any reason.

Certain members also indicated they would be unwilling to provide the utilities with business information that is considered proprietary and confidential, including the manufacturing process-related information that typically is the driver of energy-related projects, and information pertaining to corporate strategic planning, initiatives and objectives. Others expressed concern that the utilities had an inherent conflict of interest and would be expected to recommend projects that were more consistent with the utilities' interests than those of their customers, or that they would be less receptive to customer-initiated projects.

In this regard, these companies reiterated their strongly held view that they know their businesses and the types of projects that are best suited to them from engineering and other perspectives. Some members expressed concern about inevitable and unnecessary increases in program costs associated with utilities "staffing up" to provide their "assistance" without producing corresponding benefit to program participants. A concern was also expressed about how companies served by different electric and natural gas utilities would be treated, particularly with

regard to potential duplication of effort and having to contend with duplicative bureaucracies and administrative costs, and potentially conflicting sets of rules and program requirements.

In sum, while we do not purport to speak for smaller businesses that may benefit from utility involvement in their conservation efforts, NJLEUC encourages the Board to retain oversight and control of the LEU Program. In the alternative, we recommend that the LEU Program be co-managed by the OCE/TRC and the utilities to assure that the concerns expressed in these comments are properly addressed through ongoing and active Board oversight of the LEU Program. While on-bill financing and additional data options may be of interest to some, for our purposes these options do not outweigh the desirability of the OCE and TRC retaining control of this program. NJLEUC respectfully requests the Board to categorize the LEU Program as a State-Administered Core Programs.

Combined Heat and Power/Fuel Cell Program

NJLEUC supports the expanded use of CHP and fuel cells and strongly agrees with the Straw Proposal that the program should continue to be administered as a State-Administered Core Program. The utilities have not been proponents of CHP and have actively opposed other forms of distributed generation such as microgrids, presumably because they view CHP and its applications as a competitive form of generation that could reduce customer reliance on utility distribution systems and erode utility revenues. Nor have the utilities demonstrated any particular aptitude or understanding of cogeneration development that would justify their oversight of CHP and fuel cell projects. Because the purpose of the CHP program is to expand CHP penetration in New Jersey, it would be a mistake to assign the utilities responsibility for this program given their obvious conflict of interest and lack of expertise in CHP/fuel cell project development.

CHP and fuel cells are worthy of the Board's support because they have the potential to produce significant customer cost savings, enhance the reliability and resiliency of our energy infrastructure, and reduce greenhouse gas emissions. The State is also in the best position--and is properly motivated--to coordinate the desired expanded use of CHP and fuel cells with other programs, including the Board's Town Center Microgrid Program, the Energy Resilience Bank and the Energy Savings Improvement Program.

We encourage the Board to continue to make adequate financial incentives available for CHP and fuel cell projects. Further, given the technical complexities associated with distributed generation, we recommend that the Board continue to retain the services of qualified technical advisors to oversee the program and assist the Board's review of CHP and fuel cell-related project applications. Technical expertise is required for the program to produce viable projects. The utilities do not have this expertise, are ill-suited to the task and have opposed CHP/fuel cell development.

For these reasons, NJLEUC supports the Straw Proposal recommendation to categorize the CHP/Fuel Cell Program as a State-Administered Core Program.

NJLEUC appreciates the opportunity to provide these comments and to participate in this stakeholder process.

Respectfully submitted,

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April 13, 2020

Docs #4307943-v1

NAACP New Jersey State Conference
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New Jersey NAACP Statement – New Jersey Energy Efficiency Straw Proposal

Access to clean energy and its benefits need to touch all residents of New Jersey, from the millionaires to our financially insecure.

It is no secret that low-income black and brown communities bear the brunt of the pollution brought about by dirty energy. Urban schools are in areas with high diesel traffic or just yards away from heavy particulate matter producing refineries. The consequences are lower cognitive function and an increased risk of respiratory illness for our youth.

As Governor Murphy continues to push forward in making New Jersey a national beacon for clean and sustainable energy, we must ensure all of our residents are afforded the benefits in terms of finances and health.

This means training low-income individuals in the community for employment in the new clean energy sector which has higher earning potential and lesser negative effects on the environment and community health.

Richard T. Smith

President, New Jersey State Conference NAACP
Member, NAACP National Board

VIA ELECTRONIC MAIL (energyefficiency@bpu.nj.gov)

April 13, 2020

Honorable Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: IN THE MATTER OF THE IMPLEMENTATION OF P.L. 2018, c. 17 REGARDING THE ESTABLISHMENT OF ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS BPU DOCKET No. QO19010040

Dear Secretary Camacho-Welch:

New Jersey Natural Gas Company ("NJNG") looks forward to working with the Board of Public Utilities' ("BPU") on the implementation of P.L. 2018, c. 17 regarding the establishment of energy efficiency and peak demand reduction programs ("Clean Energy Act" or "CEA"). NJNG has reviewed the Energy Efficiency and Peak Demand Program Administration Straw Proposal ("Straw Proposal") that was released for public comment on March 20, 2020. NJNG appreciates the work of Board Staff ("Staff") to elicit stakeholder input and refine the Straw Proposal. We have been active participants throughout this proceeding and are pleased to see some of the updates in this Straw Proposal. However, we would like to share some remaining concerns and suggestions. In addition to these comments, NJNG also strongly supports the general comments filed today by the New Jersey Utilities Association ("NJUA") and Gabel Associates. In the interest of streamlining the public record, NJNG will not readdress the content covered within those submissions.

General Comments

- NJNG is committed to doing our part to help meet the CEA goals. We have offered a range of energy efficiency programs to our customers through The SAVEGREEN Project® ("SAVEGREEN") since 2009 and look forward to the opportunity to expand the range of solutions we can provide to make energy efficiency even more accessible. However, we

know there are significant challenges ahead as society adapts to a new normal because of the pandemic. No one knows when this will start and or what it will look like but there should be no debate about the fact that achieving energy efficiency goals will be harder than what was envisioned at the time the Clean Energy Act was passed and throughout this proceeding. More residents and businesses will be facing significant financial burdens because of layoffs and business interruptions. New barriers are likely to emerge, including those customers who will be hesitant to let strangers into their homes and restrict access to many business facilities.

We recognize that when things start to normalize there will likely be proposals to stimulate the economy. We would suggest that the Board's consideration of the longer-term structure for the administration of energy efficiency programs include a request for innovative proposals to help customers in need because of this crisis and to support the trade ally workforce. This should include both proposals to be included in the filings to be made later this year and a separate request for minor modifications to existing approved efficiency programs that can provide relief to customers and support trade allies as early as this summer. As an example, our current enhanced incentives for moderate-income customers could be expanded to also allow automatic eligibility for individuals on unemployment or for families that qualified for the federal stimulus checks. We know many households may not be interested in pursuing big purchases, but if they need to replace their HVAC equipment, the longer term NJNG offers for On-Bill Repayment could be the deciding factor in whether they pursue energy-efficient systems or take the cheapest option that a contractor has available. In addition, it would help create increased and continued work for our trade allies when they need it the most.

Additionally, this tremendous uncertainty regarding how severely the economy will be harmed and how customers may behave is a compelling reason to ensure that the performance structure doesn't unfairly penalize utilities for circumstances that are completely beyond our control.

- NJNG recognizes that the Board is striving to align the program transition with the state's fiscal year and the start of an energy year. However, NJNG believes that one of the most important considerations should be a focus on ensuring that existing trade allies and customers are supported through the transition. The Board clearly recognizes the importance of this as well, due to their interest in consistency in the Utility-Run Core Programs ("Core Programs"). It will be incredibly challenging to develop such Core Programs that balance an understanding of the current New Jersey marketplace, an intention to increase energy savings to help meet the CEA goals, and provide sufficient control for each utility to be confident that the program will contribute toward those lofty goals within their service territory. With that in mind, we implore the Board to provide the maximum

time possible for the utilities to plan, develop and coordinate those filings. The Straw Proposal references the timing for the filing as both "late Summer 2020" and "Fall 2020". There is no question that a mandate to file this summer will result in a compromise on the quality of the filing itself. Additional time provided for utility coordination will result in stronger, more coordinated utility filings that would facilitate a smoother regulatory review process for the Board, its Staff and all stakeholders involved.

Given the strain on resources from the filing, NJNG also supports the NJUA recommendation to defer the Resource Value Framework efforts for at least a year and to rely upon the Societal Cost Test for Cost Benefit screening. NJNG also suggests that it would be premature to begin the next Triennial review period in Fiscal 2023. Utilities would only have one year of program implementation experience at that point and the Board should recognize that transition years are not normally a strong foundation for analysis. Further, Fiscal 2023 should focus on improving the effectiveness of programs and the experience for both customers and trade allies to ensure we are meeting their needs. Positive experiences of participating customers and trade allies are one of the most important considerations for building momentum for a clean energy economy and ensuring we are on a path to meet the CEA goals. NJNG believes that the next Triennial review period should start no sooner than Fiscal 2024. That change would also shift the timing for the other elements of the Program Cycle reflected within the Straw Proposal.

- NJNG appreciates that the Straw Proposal allows our Conservation Incentive Program ("CIP") to continue. As noted throughout this proceeding, there is no question that the CIP has changed the culture of our Company since it was approved in 2006. Retaining that approach allows us to continue to be a strong advocate promoting both energy efficiency and energy conservation to all our customers without a concern about the potential for significant negative impacts on the health of our Company. We strive to help our customers find their best path forward for saving energy and can continue to do so without any hesitation.

- The Straw Proposal doesn't reference engagement in national organizations like the Consortium for Energy Efficiency or the Association of Energy Service Professionals. Participation in these organizations and attendance at national and regional conferences, as well as conferences run by organizations like the American Council for an Energy Efficient Economy, is one of the best ways to learn about industry trends, best practices, innovative program approaches, and emerging technologies. All entities administering programs should be encouraged to participate in efforts like this to ensure that programs continue to improve and evolve to meet changing customer needs and leverage new vendor solutions and approaches.

- NJNG appreciates the range of initiatives that the State will be pursuing – both the State-Administered Core Programs and the Additional State Led Initiatives. We encourage the Board to seek utility engagement in many of these efforts as developments could inform both Utility-Run Core Programs and Utility-Led Initiatives. Additionally, utilities would have unique insights to share based upon their experience with previous and existing energy efficiency programs and knowledge of their customer's usage and their interactions with customers and trade allies.

- NJNG recognizes that the Straw Proposal is restating information contained within the 2019 Energy Master Plan but is hopeful that the Board will consider previously provided input that strongly recommended it would be in the best interest of ratepayers to avoid locking into one decarbonization pathway. Instead, a strategy offering multiple solutions should be developed to provide a more cost-effective, long-term approach as technologies emerge and advance.

Programs and Initiatives Comments

- NJNG supports the written comments filed by NJUA, including a proposal for realigning some of the Core Programs with an expanded rationale for why it would be more effective for the utilities to run the Efficient Products program. The benefits from that switch including better alignment with Demand Response programs and allow us to capture customer participation at the account level which will enhance future target marketing, enrich behavioral program recommendations, and support more robust Evaluation, Measurement & Verification ("EM&V"), as well as leverage technology solutions that can provide a superior customer experience. The use of advanced technology solutions also provides the opportunity to access existing relationships that these software vendors have with retailers and manufacturers across the country.

- NJNG appreciates that the Straw Proposal includes several references to improving codes and standards, including code compliance and enforcement. From experience working directly with contractors as part of our SAVEGREEN program, NJNG recognizes that even though sizing calculations are a code requirement, some contractors still struggle to perform those calculations accurately. An outreach and education strategy ensuring sizing compliance with all installations can secure greater energy savings when customers pursue the installation of standard efficiency equipment. NJNG strongly encourages a robust opportunity for utilities and other stakeholders to share insights regarding existing practices in the field and anticipated impacts of proposals as part of the consideration of the adoption and enforcement of codes and standards.

- NJNG recognizes the importance of having a broad range of efficiency programs to service the needs of municipalities, school districts and other public entities. Given our experience working with these entities directly through our own energy efficiency programs and in partnership with Environmental Defense Fund Climate Corp Fellows and Sustainable Jersey, NJNG encourages continued efforts to develop guidance to help them consider the best pathway given the needs at their current facilities. Some entities may be best served by starting with a Local Government Energy Audit ("LGEA") but other small entities may be better off proceeding directly into a Direct Install program. Efforts to encourage smaller entities to pursue an LGEA could result in a waste of ratepayer funded resources by financing an unnecessary audit or prolong the time before the entity acts and begins to see the benefit of the energy saving upgrades. Similarly, the Energy Savings Improvement Program can be a strong solution for larger entities but may overwhelm smaller entities or not be the appropriate pathway for a customer that has a pressing equipment need (e.g. concerns about a boiler failure). This guidance issue is not new but will require increased coordination between the State and the utilities as some of the pathway solutions are managed by different entities. The primary focus should be on ensuring these public customers understand the range of options and can pick the solution that best meets their needs and timeframe and is most likely to result in them pursuing more energy efficiency upgrades.

- NJNG appreciates the inclusion of Behavioral Programs as a Utility-Led initiative. NJNG has nearly a decade of experience offering this type of program. While many stakeholders may only think of home energy reports within this category, these types of programs have become much more sophisticated. They can offer a much greater level of message segmentation and personalization to motivate each customer and can include other features like high usage alerts. Contracts with the vendors that provide this service can support sophisticated efforts to target customers for programs (e.g. likely eligibility for low or moderate-income programs).

- NJNG was also pleased to see the references to on-bill financing. As noted in other proceedings, NJNG is confident that on-bill repayment/financing programs are an effective tool in helping to make energy efficiency investments more accessible for residential and commercial customers. They can be structured in a way to avoid excluding customers that may not pass traditional credit screening criteria. NJNG's approach of considering utility payment history and lack of recent bankruptcies is also incredibly helpful from an outreach perspective because customers can easily sense whether they should pass the eligibility test and contractors can easily convey those requirements to customers. NJNG offers enhanced incentives and an extended financing term for moderate income customers and customer response has been strong. Customers and contractors are already responding to this new feature with moderate income customers representing nearly a quarter of our projects. The

Straw Proposal option to allow a single utility to finance comprehensive projects should provide a better experience for both customers and trade allies.

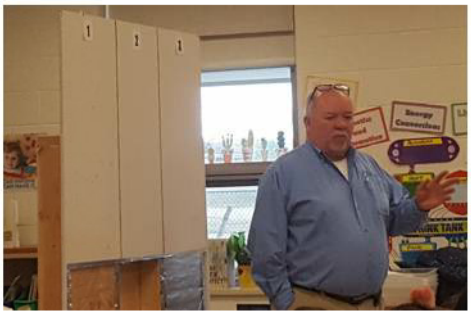
- NJNG strongly supports the idea of developing an energy efficiency curriculum. Through our Conserve to Preserve Program, NJNG has more than a decade of experience working on energy efficiency outreach in schools using poster contest, video contests, classroom speakers, and school assemblies, including the popular Energy Hog program developed by the Alliance to Save Energy ("ASE"). That experience intensified in 2015 with the expansion of our partnership with ASE when NJNG began to sponsor the PowerSave Schools programs. Working with dozens of schools since that was launched has given us unique insight into both the reaction to the PowerSave School materials and a strong interest that teachers had in inspiring students to turn classroom lessons into action at home. NJNG strongly believes it would be a wasted opportunity if there was not an intentional effort to help promote residential efforts through this educational initiative. There are models in place in other parts of the country that can help New Jersey consider options to incorporate the promotion of energy efficiency programs, especially the programs that are specifically designed to meet the needs of low and moderate-income families. Enlightened students can be encouraged to talk to their families about the resources/programs available to make energy efficiency purchases/investments more affordable (e.g. home energy audits, marketplace purchases, conservation kits). The following is an excerpt from our PowerSave School report, including images of our Building Performance Institute Auditor demonstrations.

RESIDENTIAL PATHWAY

Two schools are participating in the Residential Pathway pilot in the 2018-2019 school year: George L. Catrambone Elementary School in Long Branch and Osbornville Elementary School in Brick. This pathway was created to give students who have participated in the PSS program in previous years more in-depth information about how to save money and energy within their homes.

The activity began with a presentation from NJ Natural Gas home auditors, who explained exactly what they look for when they are in a home. The auditors share information about weather-proofing homes, wall insulation, duct cleaning, efficient lighting and water usage. Students had the opportunity to see a blower-door test and to experiment with manually powering light bulbs to demonstrate the amount of energy it takes to power an incandescent bulb and an LED bulb.

NJ Natural Gas auditor displaying a blower door.



NJ Natural Gas auditor displaying the importance of wall insulation.

Earlier in our comments, we addressed impacts and concerns related to the pandemic. Interestingly, the shift to remote learning has created a new opportunity to enhance the PowerSave School program's efforts to engage families in ways to save energy. ASE adapted their materials for online use in a remote learning setting and have increased content that is focused on examining energy usage in their own home and exploring strategies to reduce that usage, including raising awareness of resources. It is providing a perfect example of how the State should be exploring the connection between what students learn in the classroom and ways to engage families in energy conservation and energy efficiency.

Process and Cost Recovery Mechanism

As noted earlier, many of our substantive concerns regarding the proposed investment and performance structure are addressed by the comments filed by NJUA and Gabel Associates. NJNG would also like to highlight the following concerns:

- The comments from Gabel Associates provide a compelling rationale regarding why the weighted average measure life is the most appropriate amortization period, including the long standing regulatory precedents for matching costs and benefits and the opportunity to minimize the customer rate impacts associated with a significant ramp up in energy efficiency spending. While we strongly support those arguments, we note that adopting anything less than a 10-year amortization period is not in the best interest of advancing energy efficiency.

- NJNG strongly supports the idea that the initial triennial period should be a monitoring period that allows for the development of a strong baseline for the Quantitative Performance Indicators ("QPIs") that can be implemented based on actual experience. We also suggest that when the QPIs are eventually in place to assess utility performance that there should be a wider deadband. Results that fall within that deadband can avoid an excessive drain on regulatory resources of all parties. Greater attention would be warranted when targets are falling below the deadband to assess a penalty as appropriate and, more importantly, to understand what corrective action can be taken to get energy savings back on track. Similarly, when results indicate savings were achieved in excess of the deadband, further review would be warranted to award an incentive and consider what best practices may be applied to other programs to ensure outstanding performance continues.

- Another strong example for delaying the judgment of performance under the QPIs is the fact that there are virtually no reference points for some of the desired QPIs. NJNG specifically notes that the demand related QPIs have very little precedent within the natural gas industry. Within the past few years there have been some interesting pilots on demand

response for natural gas utilities but in consulting with Esource, we could not find utilities that had explicit goals for natural gas demand savings as part of a statewide mandate. Further, while the current New Jersey Clean Energy Program ("NJCEP") Savings Protocols include calculations for electric demand savings, they do not contain such similar calculations for natural gas equipment. This will require additional research and thoughtful consideration. The gas utilities would be challenged to develop the appropriate metric within the anticipated filing timeline.

- The Straw Proposal indicates that utilities "…will be required to notify the Board and Rate Counsel of any intended program change". It should be clarified that notification is only required for changes that meet certain parameters. Similar to the way that NJCEP currently has the ability to make operational changes, it will be critical to ensure that there isn't an expectation that "any change" means "every change". In the efforts of advancing energy efficiency, NJNG assumes the Board and all stakeholders want to avoid creating a structure with unnecessary administrative burdens.

NJNG appreciates the opportunity to provide comments on these topics and looks forward to working with the Board and other stakeholders as the State considers how to restructure the approach to energy efficiency as to enable the utilities to reach the aggressive clean energy goals established by Governor Murphy's administration. Please feel free to contact me if you need any additional information regarding these issues.

Respectfully submitted,

Anne-Marie Peracchio
Director- Conservation and Clean Energy

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April 13, 2020

VIA ELECTRONIC MAIL
Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625
energyefficiency@bpu.nj.gov

Comments: Energy Efficiency and Peak Demand Program Administration Straw Proposal

Dear Secretary Camacho-Welch,

The New Jersey Utilities Association ("NJUA") represents investor-owned utilities that provide electric, natural gas, telecommunications, water and wastewater services to residential and business customers throughout the State. I am writing on behalf of the electric and natural gas companies ("the utilities") that are members of the NJUA to present joint recommendations to improve the Energy Efficiency and Peak Demand Program Administration Straw Proposal ("Straw Proposal") released by the New Jersey Board of Public Utilities ("Board") on March 20, 2020. NJUA's member companies also reserve the right to submit comments on an individual basis and intend to continue to be active participants in all the companion technical and stakeholder meetings related to this proceeding.

Incredible Challenge to Meet the Ambitious Goals

Throughout this proceeding, within public comments on the Energy Master Plan ("EMP") and in various public comments on New Jersey's Clean Energy Program ("NJCEP") proposals, the utilities and many other stakeholders have highlighted the significant increase in energy savings needed to meet the legislative mandate of the Clean Energy Act ("CEA"). The utilities appreciate that the Straw Proposal recognizes the utilities' unique ability to leverage customer and contractor relationships as well as utility data and systems. However, we remain concerned that specific elements of the Straw Proposal will inhibit the ability of the utilities, and thus the State, to achieve the target reductions required under the CEA. It is critical for the Board and all stakeholders to recognize the magnitude of the increase in energy efficiency that these targets represent in comparison to recent savings levels. NJUA has provided the following chart in prior comments to frame the scope of the increase required.

Comparison of Reported Energy Savings for New Jersey Relative to CEA Targets		
Clean Energy Act Target	EE Savings % of Retail Sales per 2019 ACEEE State Scorecard	Approx. Magnitude of Increase in Energy Savings required
Electric- 2.00%	0.35%	5.7X
Gas- 0.75%	0.29%	2.6X

Many argued that the goals represented in the Act were extremely ambitious even in the early stages of this proceeding. And by certain proposed polices of the Straw Proposal, these already aggressive and ambitious targets are unnecessarily made more challenging resulting in overall electric savings goal of 2.56% within five years, as opposed to the CEA stated goal of 2%. Clearly, they are even more daunting now given how dramatically the pandemic may impact the economy, customer interest in participating in energy efficiency programs, and even our ability to have access to homes and businesses. Thus, in an effort to give the State the best opportunity to achieve the CEA goals, the utilities recommend the following proposed amendments to the final structure for New Jersey's Energy Efficiency and Peak Demand Reduction Programs.

Specifically, the utilities recommend that the Board:

- Remove the 100-basis point reduction to the ROE that penalizes Utilities for energy efficiency investments,
- Utilize gross savings for compliance with the CEA,
- Provide lost revenue recovery for *all* programs used for compliance with the CEA,
- Make application of penalties discretionary to the extent that factors impacting performance are beyond the utilities' control, for example factors related to a pandemic or major storm,
- Equitably balance both Utility and NJCEP targets based on the programs assigned to each party
- Adopt the utilities' suggested consolidated Core program offerings to better support program efficiencies and customer experiences,
- Expand program administration flexibility to permit utilities to shift budgets and adjust incentives to leverage successful programs and allow timely reactions to market conditions,
- Modify and streamline the Qualitative Performance Indicators with no performance incentives or penalties applicable in the first triennial period,
- Direct that utility filings be required by October 31, 2020, and
- Clarify that utilities may include for recovery all reasonably incurred incremental costs associated with efforts to design, create, and obtain Board approval of the Utilities' filings.

Investment Treatment

We recognize the importance of considering the rate impacts associated with the significant ramp up in energy efficiency activity that will be necessary to meet the CEA targets. However, the Straw Proposal includes both factual errors and flawed logic, including the following:

- As noted in our February 6, 2020 submission on the Cost Recovery Straw Proposal, the Straw Proposal inaccurately states that the mechanism is modeled on other jurisdictions such as Maryland and Washington DC. Two New Jersey multi-state utilities operate in Maryland and are intimately familiar with the EE structure there. Utility run programs in Maryland earn the applicable utility's full Weighted Average Cost of Capital ("WACC") on the unrecovered portions of both program investments and related operations and maintenance expenses for those programs. Additionally, there currently are not any utility-run programs in Washington D.C. Accordingly, there is no comparable structure for utility investments in energy efficiency.
- The utilities acknowledge that the Straw Proposal's modified return on equity ("ROE") that reflects a 100-basis point reduction from the utility's allowed ROE is a slight improvement over the prior draft proposal of a 200-basis point reduction. However, any reduction in ROE is completely unreasonable, unprecedented and serves as a penalty for all investments in

energy efficiency as the utilities will not be able to recover their full costs of making the investments. Collectively, the utilities are not aware of, and our research did not reveal, any regulatory proceeding, including punitive actions, where such a dramatic reduction in ROE was imposed. Throughout the stakeholder sessions in this docket, there have been passing references to other jurisdictions that offer utilities the opportunity to earn on their energy efficiency investments. In all instances, the ROE on their energy efficiency programs are identical to their overall allowed ROE, with opportunities for increased ROE based on performance.

- The utilities want to support the State's initiative for energy efficiency, but we have a fiduciary duty that makes it difficult to promote programs that do not allow for full recovery of program investments and lost revenues. Staff wisely recognizes this consideration in the Straw Proposal. In fact, Page 10 of the Straw Proposal states "Staff believes that, while required by statute, energy efficiency program will ultimately not be successful if the proposed mechanism negatively impacts a utility's economic bottom line or if such programs are considered a less attractive investment than traditional infrastructure." It makes no sense for the State to force the utilities to launch programs under a regulatory paradigm that clearly doesn't meet its own stated pre-requisites for success.
- The Straw Proposal also claims "[i]f these energy efficiency programs were accounted for in base rate ROE, which looks at a totality of utility investment not included in clauses or riders, Staff expects that each utilities' base rate ROE would be reduced." This is unsupported and incorrect. Utility ROEs are determined by reviewing cost of equity models on proxy groups that include all risk attributes of every rate-making mechanism for each company in the group, including formula rates, decoupling, clauses and trackers. There are no cost of equity models that evaluate the risk specific to just a clause or rider for a utility. The ROE reduction proposed by Staff is completely arbitrary, unsubstantiated and unwarranted.
- The Straw Proposal also claims "energy efficiency programs are less risky than traditional infrastructure investment found in a base rate case because, generally, energy efficiency programs will not undergo several years of construction and spend with the risk that the Board will find the investment not to be used and useful". This logic is flawed for a number of reasons. For example, energy efficiency programs that support the needs of larger commercial customers are likely to be multi-year projects. Spending related to energy efficiency programs is very closely monitored by regulators and other stakeholders and will still be subject to prudency reviews. Energy efficiency programs are also subject to constantly changing economic, market and business conditions. Now the industry is faced with a major risk factor related to the pandemic and resulting economic crisis. Utilities and contractors are prohibited from entering homes for nonemergency work. Many contractors have had to lay off staff. Further, we have no way of knowing what the long-term ramifications will be or if we'll have to practice social distancing on an intermittent basis as some health experts suggest. Even when stay-at-home orders and prohibitions on customer interactions are lifted, utilities and other businesses may need to take added precautions to protect workers and customers. In addition, we must be prepared for the possibility that a percentage of customers will remain hesitant to allow contractors to enter their homes until fears related to the pandemic have subsided.
- Any investment mandated by regulators below the utility's currently allowed return on base rate investments is punitive. The Straw Proposal approach penalizes the utility for all performance below the maximum incentive level, which isn't reached until 150% of the target is achieved, which is completely unreasonable and unrealistic. Thus, there is no actual

"incentive" posited in the Straw Proposal, which conflicts with the CEA. This structure is inappropriate and far worse than the cost recovery mechanism that exists in New Jersey today. Moreover, while the CEA authorizes cost recovery of and on investments and recovery of lost revenues, there is no mention of an ROE reduction as a starting point. The proposed reduction of ROE by 100 basis points is an improvement over the 200-basis point reduction in the initial cost recovery straw only in that it is punitive to a lesser degree. It still nullifies any incentive to invest in EE. The starting point must be the currently allowed ROEs.

- The Weighted Average Cost of Capital ("WACC") is the appropriate return for energy efficiency investments for multiple reasons, including: (1) utilities finance their business as a whole, and not in part; (2) the WACC represents the utility's costs to finance its distribution investments; (3) using the WACC ensures that the energy efficiency investments (and the savings they produce for customers) are on a level playing field with all other distribution investments; and (4) the WACC used by each New Jersey public utility has been determined by the Board and is a just and reasonable rate. Furthermore, by setting the rate of return for the energy efficiency and demand response investments at the WACC, the New Jersey Board of Public Utilities would be sending a clear message that these investments are just as important as all other distribution system investments. It would also send a strong message in support of the State's Energy Master Plan. The Straw Proposal further suggests that part of the rationale for a reduced ROE was a concern about the potential for "over-earning". An earnings test could be used to ensure that utilities do not over earn without reducing the ROE, as the Board utilizes in the Infrastructure Improvement Program ("IIP").
- The use of an ROE reduced by any amount relative to other investments that would by default earn a higher ROE, such as the IIP or base capital investments, creates an inherent disincentive to invest in EE in New Jersey.
- Regarding the proposed amortization period of 7 years for program investments, there is no supporting rationale provided for why this term was selected.
- The utilities are also opposed to the penalty that would reduce distribution ROE, as the clear language of the CEA disallows the imposition of such a penalty. Specifically, N.J.S.A. 48:3-87.9e.(3)(e)(3) states "The adjustments made pursuant to this subsection may be made through adjustments of the electric public utility's or gas public utility's return on equity <u>related to the energy efficiency or peak demand reduction programs only</u>" (emphasis added).
- There should also be a clear process to deal with extreme circumstances that could severely inhibit the ability to meet a utility's ability to meet their targets. Just a few months ago, the most common example would have been the extreme disruption at the local level from something like Superstorm Sandy but unfortunately, we have a new example with the pandemic situation that will have crippling effects on the economy for an extended period of time. Thus, the Straw Proposal should be amended to make any penalties discretionary to ensure penalties are not applied to the extent that factors beyond the utilities control were the basis for the under-performance.

The utilities are not opposed to the proposed treatment for over and under recoveries but recommend that a commercial paper or short-term debt rate, as applicable, be used instead, consistent with the rate used for recovery of existing utility-run energy efficiency or RGGI-related programs. Additionally, while the utilities are concerned that a rate cap on the recovery of energy efficiency investments could impair the ability to meet the CEA goals, we do not have a concern about monitoring the impacts in the two-year period after the transition of the programs.

Lost Revenue Treatment

It is important to consider that New Jersey's energy utilities recover the cost of their investments in the distribution system largely through volumetric rates, charged per kWh or per therm. There is thus, as currently structured, a fundamental disincentive in New Jersey's ratemaking process and rate designs to invest in energy efficiency programs. Implementation of energy efficiency programs result in lower throughput (sales) on the distribution system, while the costs of providing electric and gas distribution service (*e.g.* capital investment, and operation and maintenance expense) of the electric and gas distribution systems do not decrease. The State has already recognized the need to incentivize energy efficiency investments in law through the language and structure of the Clean Energy Act and section 13 of the Regional Greenhouse Gas Initiative ("RGGI") (N.J.S.A.48-3-98.1).

The Straw Proposal's lost revenue treatment approach contains several concerning elements. First, the proposal would only allow for the recovery of revenues that can be demonstrated to be attributable to utility-run programs. All lost revenues associated with energy efficiency and peak demand reduction efforts should be recoverable, regardless of who administers the programs. This is especially important to consider in the context of the Straw Proposals' approach to program administration, which proposes that key energy efficiency programs will remain under the control of the state or be co-managed. Given that the Straw Proposal would only allow recovery of lost revenues directly attributable to utility administered programs, this would create a situation where a utility would have a disincentive to encourage customers to participate in state-run programs.

All stakeholders should recognize that it is challenging to get customers interested in pursuing energy efficiency. From practical experience, New Jersey Natural Gas and South Jersey Gas note that outreach regarding their own programs has occasionally led to customers pursuing other energy efficiency strategies like an Energy Savings Improvement Program ("ESIP"). Both companies actively supported customers pursuing the path that best fit their objectives and did not have to consider the potential for any negative impacts because the design of the Conservation Incentive Program ("CIP") made them neutral to changes in customer usage regardless of the program pursued by the customer. Having the utilities suffer financial harm when customers pursue other energy efficiency strategies will not result in the cultural shift necessary to allow the State to become a national leader and reach the CEA goals. The utilities cannot support a lost revenue approach that does not account for all programs available to consumers. As presently structured, the proposed lost recovery mechanism does not fully offset the reduced distribution sales that result from the CEA and, therefore, acts as a penalty for utilities in their pursuit of the CEA's aggressive energy efficiency goals.

The proposed mechanism provides for lost revenue recovery on a net-savings basis, which fails to recover on a full basis all of the distribution revenues lost as a result of the State's efficiency gains. The mechanism should be adjusted to provide for lost revenue recovery of sales on a gross, ex-post savings basis because this is the actual, quantified program impacts captured through efficiency programs and should be the basis for recovery. Although the Proposal recognizes Staff's hope that the proposed limited decoupling mechanism will provide all utilities freedom to aggressively pursue and endorse energy efficiency, the proposed approach ultimately fails to achieve that desire and is inconsistent with the directive in the Clean Energy Act. Specifically, the Clean Energy Act provides that:

> *Each electric and gas public utility shall file annually with the board a petition* ***to recover on a full and current basis*** *through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency programs and peak demand reduction programs required pursuant to this section, including but not limited to . . .* ***the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules*** *. . . N.J.S.A. 48:3-87.9(e)(1). (Emphasis added)*

While the utilities strongly oppose the proposed mechanism, we do support the concept of truing up recoveries on an annual basis and are open to considering an earnings test requirement. Any mechanism should be formulaic to ensure resources are not wasted debating the outcomes in future regulatory proceedings. The utilities that currently have a CIP mechanism in place appreciate the Straw Proposal acknowledges the success of that model and allows for it continue. The Straw Proposal further states that Staff "seeks input on CIP design for EDCs." NJUA EDC members would be open to discussions on the mechanics of applying any reasonable lost revenue recovery mechanism, including a CIP, to electric that is workable for the utility to which it may be applied.

Net Savings Not Appropriate; Gross Savings Should Be Used For CEA Compliance

Staff recommends in the Straw Proposal at pages 52-53 that "energy savings should be reported in both gross and net savings, with net saving utilized for all aspects of program review, including cost-effectiveness testing and compliance". Gross savings are the appropriate metric to use to measure and report savings for compliance with the CEA for numerous reasons.

The utilities strongly believe that net savings are inappropriate under the plain language of the CEA, which clearly allows all energy savings to be applied by the utilities. N.J.S.A. 48:3-87.9(c) states that "A public utility may apply all energy savings attributable to programs available to its customers, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on the date of enactment of the [CEA], building codes and other efficiency standards in effect, to achieve the targets established in this section." In other words, the CEA makes it unmistakably clear that the utilities can count all savings that occur and not just a portion of those savings. Our multi-state utilities also confirm that New York, Maryland, Pennsylvania and Ohio all rely upon gross savings for their targets. Additionally, all publicly stated energy savings for New Jersey's Clean Energy Program ("NJCEP") are stated on a gross basis, so the State would not be able to provide reliable estimates of their planned contribution toward the CEA targets for the programs they retain. There is no clear or compelling rationale to make the shift to net savings at this time, nor should the State not take credit for its full progress toward its efficiency goals.
Beyond the clear legislative intent, gross savings are more appropriate because they measure the ***actual energy and demand savings*** that were realized by the State. Using net savings for compliance will arbitrarily discount actual savings, by subtracting real savings achieved through the programs, but projected through an after-the-fact study to have been achieved from program participants that would have implemented the efficiency measure without the program – typically referred to as "free riders". Based on the straw proposal's planned use of an initial net-to-gross ratio of 84%, this equates to a 16% discount of real savings achieved in the state. Thus, when you consider the already aggressive 2.15% electric savings target established in the straw proposal, and an assumed 0.84 net-to-gross (NTG) factor, the actual energy savings that would need to be achieved to reach that threshold would be 2.56% or 41 basis points, or 19% higher than the straw target. The Strawman indicates that the Board will coordinate the release of a net vs. gross study, and that the EM&V Working Group will review NTG ratios annually, which could

further arbitrarily discount the savings being achieved in the future and increase the cost of compliance even more. Thus, the use of net savings will unnecessarily increase targets and drive up budgets and resulting rate impacts on customers.

Third, gross savings reflect what program administrators are in a better position to control (*i.e.,* the participation in their programs driven by their efforts). Use of gross savings also aligns with the Minimum Filing Requirements term V.f. which calls for the "energy and capacity savings any free rider and spillover effects, i.e., savings associated with participating customers who would have implemented energy efficiency or renewable energy measures without N.J.S.A. 48:3-98.1 benefits or incentives" to be included in the cost-effectiveness calculations. As Staff recognizes in the Straw Proposal, NTG assumptions "may change significantly" for many reasons including incentive amount, program design, implementation detail, and marketing effort. Many other factors can influence NTG ratios such as energy rates, economic factors, and other market conditions that change over time. Further, net savings attempts to adjust savings measurements for things like "free ridership" and "spillover" introduce ambiguity and the potential for survey bias into the determination of estimated savings achieved by the programs. Moreover, as net savings determinations require potentially extensive, and lengthy research, net savings results are often not known until well after a program year is complete (years afterwards, in some jurisdictions). Measuring savings on a net basis would minimize the impact of codes and standards on achievement of goals, which may cause these valuable tools and key strategies within the 2019 Energy Master Plan to be deprioritized, and become a missed opportunity for savings. As mentioned above, the Straw Proposal indicates that the Board will coordinate the release of a net vs. gross study, and that the EM&V Working Group will review NTG ratios annually. As such, program administrators would not be able to adjust program operations to react to changing NTG ratios to strive to meet compliance targets. Simply put, it is not reasonable or practical to determine compliance based on net savings due to both timing and all the factors that are beyond the control of the program administrator. And, it would be entirely inappropriate to establish compliance targets and to determine compliance with those targets based on different assumptions than what was used to establish the targets.

In conclusion, gross savings aligns with the clear legislative intent, measures the actual energy and demand savings that is realized by the state, avoids inappropriately increasing the targets and cost of compliance and is tied to what program administrators can control. As such, gross savings should be used for compliance.

Qualitative Performance Indicators and Performance Incentive Mechanism

Through stakeholder meeting and publicly filed comments on the Market Potential Study ("MPS") and the broader Energy Efficiency Transition proceeding, the utilities and numerous other stakeholders have repeatedly expressed concern that the proposed Quantitative Performance Indicators ("QPIs") are too complicated. While the utilities recognize that some of the elements proposed within the QPIs may have merit, using tools like focused evaluations and actual program results will provide richer insights to inform future program refinements and potential Board directives than prematurely establishing QPIs.

Further, the utilities continue to recommend that for the first triennial period there be no performance penalties or incentives applied, this period should be used to ensure a smooth transition of programs, establish baseline performance, allow programs to ramp up and perform New Jersey-specific research from which future utility territory-specific targets can be established. The utilities have previously expressed significant concerns about being judged during a major transition period when there will

undoubtedly be unforeseen challenges. This concern has intensified as a result of the tremendous uncertainty about lingering post-pandemic conditions. Utilities should be focused on three key objectives-improving the delivering of programs during the initial years to capture more energy savings, ensuring a positive customer experience and supporting trade allies to help grow the economy. Any mandate that would result in utilities obsessing over a broad range of metrics will dilute our ability to focus on these key objectives and undermine the energy efficiency transition.

The added benefit from monitoring the QPIs rather than judging performance in the initial years is that it will provide an appropriate baseline, grounded in New Jersey specific conditions, to allow the appropriate levels to be set for the QPIs when they would eventually be applied. As an example, the utilities could not find strong evidence of states that have mandated demand reduction goals for natural gas and that metric is not currently addressed with the New Jersey Protocols for energy savings. Accordingly, it would be challenging to consider how to set an appropriate value. More experience running the expanded slate of utility programs will greatly enhance future discussion of which QPIs are appropriate and what relevant values should be.

The utilities do not have a clear understanding of the proposed distribution of responsibilities for the Co-Managed Programs and have significant concerns about the potential for any co-managed structure to slow down decision-making, limit flexibility, delay the release of payments to customers and trade allies or inadvertently transfer some of the structural barriers that have presented challenges for NJCEP over to the utilities. Given the magnitude of the energy saving targets, it is critical to ensure that we eliminate all structural impediments that could inhibit our ability to get new programs launched efficiently and effectively and meet the expectations of our customers. Unless there is a clear commitment to ensuring that all the challenges noted within this paragraph are eliminated, the utilities recommend that the Co-Managed Programs be excluded from the QPIs.

The Straw Proposal has reduced the ROE down to the cost of debt at 50% of those targets, which for some utilities would be a reduction of approximately 550 basis points. Conversely, the potential incentive for performance at 150% of target is an increase of only 100 basis points. This asymmetric incentive structure provides dramatically more downside risk than upside reward. The performance incentive mechanism should have a basis point reduction below target that is no larger than the basis point increase above target.

The utilities are also opposed to the additional penalty on poor performance suggested on page 42; “If the utility fails to reach 50% of the target, it will be deemed non-compliant and will be assessed a penalty of 0.75% of the base rate distribution revenue in the previous year”, as the clear language of the CEA disallows the imposition of such a penalty, which effectively is a reduction in the utility’s overall ROE. Specifically, N.J.S.A. 48:3-87.9e.(3)(e)(3) states “The adjustments made pursuant to this subsection may be made through adjustments of the electric public utility's or gas public utility's return on equity related to the energy efficiency or peak demand reduction programs only” (emphasis added).

Cost Benefit Tests

The utilities are supportive of the Straw Proposal’s intention to ensure that the appropriate benefits of energy efficiency are captured by considering the Resource Value Framework and potentially developing a New Jersey specific test. However, the utilities believe that there is no value in trying to rush the consideration of such an important issue. There are significant concerns about the potential drain on resources of trying to conduct such a proceeding during the coming months, especially since the utilities

will need to focus their efforts on preparation of the EE filings with a significant need for coordination between the utilities for core programs and the development of other additional utility led initiatives to meet the targets. Accordingly, the utilities suggest that this effort to consider the broader context of the approach to cost benefit analysis should be delayed until Fiscal 2021 or later. Postponing this effort would also allow the Board and all stakeholders to consider updated guidance from a newer edition of the National Standards Practice Manual that is anticipated to be released later this year.

For the purposes of the pending filings, the utilities believe that the only cost effectiveness metric should be the Societal Cost Test ("SCT"). The SCT is the only cost effectiveness test that is consistent with the clear language of the CEA, which states "[t]he energy efficiency programs and peak demand reduction programs shall have a benefit to cost ratio greater than or equal to 1.0 at the portfolio level, considering both economic and environmental factors."

Approach to Programs

The utilities expressed concern that the December 2019 Straw Proposal primarily focused on sorting out the existing suite of NJCEP programs because those programs, as currently structured, are not achieving anywhere near the CEA target for energy savings. The utilities appreciate that the Board recognized our concern and has clarified within this Straw Proposal that the utilities are not required to propose the core programs exactly as they are currently designed and offered by NJCEP. It is incredibly helpful for the utilities to be able to modify and improve the program designs recognizing best practices and lessons learned. Implementation flexibility will improve their overall performance and benefit of customers, trade allies, and the State. This flexibility would include the ability to select individual implementation contractors and adjust incentives within a range to be able to quickly respond to market conditions and program performance. The utilities are confident that this can be accomplished in a manner that advances the programs by bringing new approaches and features to the market as soon as possible and minimizes any potential disruption on trade allies. The utilities have been continuing discussions regarding the delivery of the core programs and are confident they can develop a system that will ensure consistency across the state and coordination of key functions.

Those on-going utility discussions have led to the following recommendations:

- **The Core Utility Programs should be restructured based on leading mass market energy efficiency programs across the country, streamline delivery, reduce administrative burden, reduce cost and improve customer experience.**
  The most recent proposal includes eight core utility programs, based on transitioning nine existing NJCEP programs to the utilities: WARM Advantage, COOL Advantage, Home Performance w/ Energy Star, Multi-family Existing Buildings, Retrofit Smart Start, Pay for Performance, Large Energy Users Program Customer Tailored Energy Efficiency Pilot, and Direct Install. Consolidating these programs, many of which are end use specific, or unique target marketing and delivery channels, will reduce administrative costs, improve savings opportunities, simplify program offerings to customers to avoid customer confusion and improve the customer experience and consistency across programs. The utilities jointly recommend a structure with five core utility programs, serving the same markets:

  - Efficient Products: Includes HVAC, Products, Marketplace, and for energy efficient equipment

- Existing Homes: Whole building comprehensive residential projects, including home energy audits
- Prescriptive: Rebates for Commercial HVAC, Lighting, Motors & Drives, Refrigeration, Food Service Equipment, and more
- Custom: Custom incentives for large energy efficiency projects
- Direct Install: Projects for Lighting, controls, refrigeration, heating and air conditioning updates, and more for small business

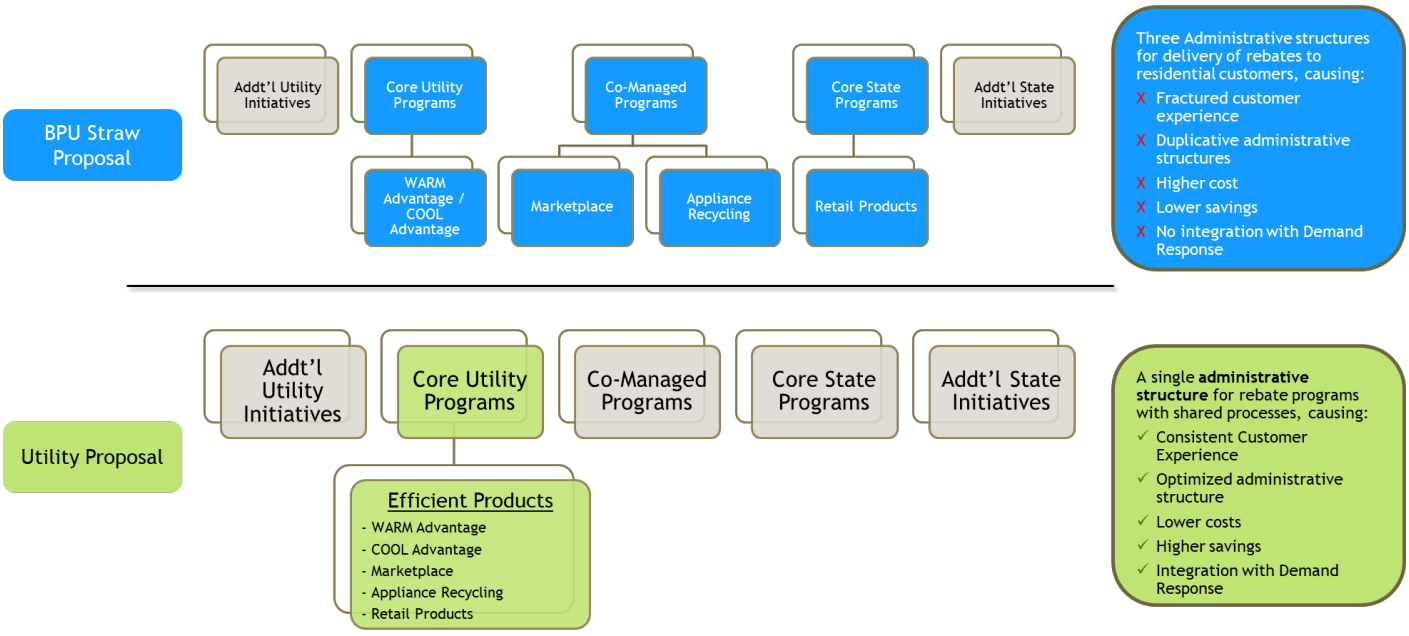
This structure includes three enhancements to the existing proposal for Core Programs:

1. Consolidate mass-market residential programs under Utility Core: An efficient products program could integrate all residential rebate programs under a single program, to reduce administrative burden, avoid customer confusion, improve ability to leverage and better promote the collective offerings to customers and improve the overall customer experience.

A critical component of this structure is integrating all residential rebate programs under a single program, to be implemented by each of the utilities in the state, consistent with benchmarking of leading programs across the country. Under the Program Administration straw proposal, residential customers would be engaging through three distinct program structures, fracturing and degrading the customer experience:

- State Run: Retail Products
- Co-Managed: Marketplace, Appliance Recycling
- Utility Run: WARMAdvantage, COOLAdvantage

The benefits of a consolidated program include ensuring consistency for customers across programs, eliminating multiple points-of-touch, providing better, faster customer service, partnering with local retailers, and integrating with Demand Response into energy efficiency offerings.



2. Serve Large Energy Users through C&I Prescriptive and Custom Programs and/or Additional Utility-Led Initiatives: the types of customers and their needs vary greatly across the service territories and they are best served through individual programs, or the Utility-proposed core programs.

The C&I Prescriptive and Custom subprograms will offer rebates and incentives for projects conducted by large energy users. Bundling incentives and rebates and providing enhanced incentive structures can be used as an added incentive for larger, or more comprehensive projects. Utilities may offer on-bill repayment for these programs. Opportunities for a custom-tailored solution can be handled on a customer-by-customer or customer type basis, being designed to meet their specific needs. Given the low volume and large project sizes, reducing duplicative administrative structures, and allowing customers to be served through consolidated existing core programs will increase cost-effectiveness for all customers.

3. Serve Multifamily customers either through the Utility-Proposed Core Programs, or through Additional Utility-Led Initiatives, such as an Engineered Solutions Program: Provide flexibility for different approaches given the variation in housing stock, as well as customer sectors, across utility service territories.

Multifamily customers are traditionally underserved and have unique market barriers to participation in energy efficiency. However, these market barriers are not homogenous across the housing stock of any particular utility service territory, much less across the entire state. Indeed, depending on the particular style of buildings – smaller multifamily buildings, high rises, garden apartments – the mix of customers – low income, moderate income, market rate, renters, owners – type of heating and cooling equipment – central plant or individual tenant units – the needs and opportunities of those customers will be best served through a wide variety of program offerings.

The Utilities propose instead of a standalone Multifamily program that re-creates all of the pathways different multifamily customers will want to interact with the program, that those pathways are built into the existing utility proposed core programs and defined in program filings how the proposed core programs will serve the unique needs of multifamily customers. This may include targeting marketing, online customer engagement channels, bundling of program offerings and incentives, modified incentive structures, special tools for owners and renters, and more.

In addition, recognizing the highly diverse and unique utility service territories, utilities should have the flexibility to also serve multifamily facilities with comprehensive projects as part of a larger "Engineered Solutions" program. These programs provide for audit, engineering, and construction of comprehensive energy efficiency projects, typically serving both tenant and common areas under a single project and may offer on-bill repayment or an alternate financing approach to address a common market barrier for energy efficiency, availability of upfront funding.

By creating multifamily pathways that leverage and bundle the proposed core utility programs, the number of overall programs is limited, reducing customer confusion and duplicative administrative structures. This also leverages the entire program portfolio to comprehensively serve the needs of these diverse customers versus being limited to a specific program design that attempts to contemplate these considerations. To ensure this underserved market segment receives the proper focus under this structure, multifamily pathways should be defined in program filings, and participation should be tracked and reported by each utility.

Explore alternate approaches to reaching more low- and moderate-income customers:
Additionally, the utilities would like to pilot approaches that allow for automatic eligibility for specific geographic locations that have a high population of eligible customers and/or meet other policy priorities (E.g. census tract, Urban Enterprise Zones, Opportunity Zones, environmental justice communities). Research indicates this can increase participation. Also, while the Straw Proposal addresses serving low income customers by the continuation of the Comfort Partners program, it does not reference any separate treatment for customers that fall in the moderate-income segment. New Jersey Natural Gas, South Jersey Gas and Elizabethtown Gas are all currently running programs or offering modified incentives to ensure this market has a fair opportunity to participate in programs. The utilities have cited interest in expanding these offerings throughout this proceeding and we intend to consider the best ways to serve the moderate-income market within core programs. Additional need for a distinct approach to serve this market segment was also included in the NJUA comments from February 2019.

The State is committed to ensuring equitable participation in energy-efficiency programs and with that we urge you to help identify a solution for funding for remediating health and safety conditions that are a barrier to participation for low-income customers. Through our experience in the Comfort Partners program, the utilities know that a significant portion of interested low income customers have health and safety conditions (e.g. asbestos, lead paint, mold, roof leaks, moisture in basement or crawlspaces, open sewer or drain lines, leaky plumbing, insect infestations) that are beyond the means of energy efficiency budgets. While Comfort Partners allows for the improvement of minor health and safety issues to ensure the completion of weatherization measures, program rules do not provide sufficient funding to tackle these more challenging and expensive conditions. The Board can lead the exploration of other funding sources in coordination with other state agencies like the Department of Health, the Department of Community Affairs, and the Department of Human Services.

Flexibility
The utilities appreciate that the Straw Proposal recognizes the fact that flexibility is a critical component of successful energy efficiency program administration and the expanded structure that allows for some changes to made based upon notification or with Board staff approval. However, the proposed parameters for what utilities could adjust are still far too narrow to allow utilities to be nimble and responsive in a timely manner to dynamic market conditions and ensure that the energy savings targets are met in an efficient manner. All parties should recognize that it is challenging to run energy efficiency programs and nearly impossible to predict both market conditions and exactly how customers will respond even in periods when the programs are relatively stable. Demand for programs can be effected by weather (e.g. extreme heat or cold prompting more equipment failure and greater customer interest as a result of higher bills), higher or lower energy bills as a result of price changes, general economic conditions, the success of marketing efforts, and a host of other factors. Other adjustments may be appropriate to capitalize on changes in measure costs (E.g. falling cost of LED products). In the new structure, where the primary objective is to ensure the mandated energy savings targets are met, it is critical to allow utilities sufficient flexibility to adjust incentives and redirect budgets as necessary. This can ensure savings targets can be achieved and avoid disruptions to successful programs (e.g. program with strong demand might have to shut down mid-cycle if funds could not be transferred). With these factors in mind, the utilities propose the following:

Category	Straw Proposal	Utility Recommendation
Budget shifts within a sector	• Up to 10% with staff notification • 10-20% with staff approval • >20% requires BPU commission approval • Cap on # of adjustments per year	• Up to 50% with staff notification but will commit that no transfer will result in a program shutting down • >50% requires BPU commission approval • No cap on # of adjustments
Budget shifts between sectors	• Up to 5% requires staff approval • >10% requires BPU comm approval (note gap error) • BPU comm approval required for any shifts with low income or small business.	• Up to 25% with staff notification • >25% BPU approval
Incentive adjustments	• Up to 20% with staff notification • Between 20-40% requires staff approval • >40% requires BPU approval	• Up to 50% increase with staff notification and no limit on reduction of incentives • >50% requires BPU approval

The utilities had previously advocated for even broader flexibility and cited lessons from New York where the approach evolved over time to continue to provide utilities with more flexibility. Beginning with the program year for 2014, utilities were no longer required to secure New York commission staff approval for changes to measure incentives or budget and target reallocations. New York found that "removing these requirements will reduce unnecessary administrative steps without affecting sector budget or targets or weakening oversight of the programs". The utilities recognize that New Jersey may not be comfortable moving to that range of flexibility at this point so we believe the proposed alternative is a reasonable compromise that provides some safeguards while still allowing utilities to timely react to market conditions to ensure that the target energy reduction goals are met.

As an illustration of how the current proposal would be far too restrictive, the utilities share the following example. Consider an Appliance Recycling Rebate that is initially set at $50. If the utilities were to believe that they generate additional energy savings required to stay on track to meet a target, they would only be allowed to increase the rebate by $10 under the staff notification path or up to $20 with BPU staff approval. Neither of these is that compelling an amount to prompt significant incremental program activity. Utilities would need BPU approval to increase the rebate to $75, which has proved to be successful in other States to drive increased program performance. In fact, Potomac Edison in Maryland, an affiliate of JCP&L, increased incentives for appliance recycling (for a short-term period) from $50 to $75 and successfully increased participation by 170%.

This is the perfect example of why there should be more utility leeway in making adjustments and avoiding tying up valuable regulatory resources on minor decisions.

Incentive level flexibility is important to maximize the utilities' ability to adapt to changing market conditions and run programs that both achieve the desired participation rates and maintain cost-effectiveness. All rebate levels should be considered "up to" amounts; utilities should have the ability to decrease incentives up to 100% by notification only (e.g. if a measure is no longer cost-effective). Increasing incentive levels will be important to drive increased participation in programs when needed. The QPIs will provide an inherent control on this flexibility, as utilities will be liable for potential penalties if there is a reduction in cost-effectiveness associated with the increased incentive.

Marketing

The utilities look forward to working closely with the Board through the proposed Marketing and Communications Working group. As noted in our comments in December 2019 Straw Proposal, the utilities would recommend using the Maryland approach to marketing programs. The Maryland Energy Administration adopted a co-branded marketing approach with the utilities for shared programs. The materials feature the individual utility logo in conjunction with the state agency logo for shared programs. They developed a collaborative process to identify brand standards and guidelines in the beginning to eliminate timely review processes. Following a similar approach will allow for utilities to plan and implement of the defined standards in advance of launching programs. Utilities want to ensure that individual programs can be effectively marketed to achieve energy reduction targets.

Targets

It is critical to consider that the CEA targets were developed among many stakeholders and with significant deliberation that included numerous legislative hearings. The utilities recognize that the proposed net annual savings targets for each utility are taken directly from the Market Potential Study ("MPS"). However, there continues to be significant stakeholder concerns about the lack of primary research from New Jersey customers and no substantive stakeholder input in the process that developed the MPS and that the MPS did not determine utility specific potential. Important questions remain about the conclusions and recommendations from that study. In fact, the Board appropriately noted in its Order dated May 28, 2019: "The Board acknowledges that that there is still a lot of work ahead and that there are many details not fully contemplated in the law or addressed in the EE study which require further analysis and recommendations." The Board adopted the MPS as preliminary and directed a stakeholder process to support its further determinations. The utilities recognize that Board staff and all stakeholders have invested considerable resources in stakeholder proceedings over the past six months but none of those efforts were focused on refining the MPS. As such, it is most prudent to first determine the feasibility and impact of meeting the CEA targets in the statutorily established timeframe[1] before establishing new targets. The utilities recognize that the targets for Program Years 4 and 5 are preliminary but it is not appropriate to prejudge that the utilities can reasonably achieve energy savings at those levels when only a handful of states in the country have historically achieved such savings levels and they may have considerably different weather profiles, market baselines and potential, rate structures and more robust trade ally networks. It will also be important to consider the range of costs to achieve higher targets, especially given the incredible uncertainty of the economy in the post pandemic period.

While the utilities appreciate the Straw Proposal's intention to ramp into the energy savings target, the proposed ramping up is incredibly ambitious, and once again reflects the recommendation of the MPS

[1] See subsection a. of section 3 of the CEA (N.J.S.A.48:87.9) providing, in pertinent part, that annual energy reduction goals must be met "within five years of implementation" of the utilities' respective energy efficiency programs.

without any consideration of the significant concerns raised by many parties. The ramping is very aggressive in relation to current reported NJCEP performance and on the surface (*e.g.*, the natural gas savings target doubles between Year 1 and Year 2). The utilities continue to recommend that the first-year targets begin with targets that are consistent with current performance, then gradually ramp up toward the CEA targets rather than the MPS fifth year targets.

The Straw Proposal suggests that utility specific targets should be determined after consideration of expected NJCEP savings but there is no reference to how savings from codes and standards will be considered. Savings from those efforts are explicitly required by the CEA and were even highlighted within the BPU staff's presentation on the April 1, 2020 webinar. Leading energy efficiency states like California and Massachusetts attribute a significant percentage of their energy savings from such efforts. For example, in California, the 3-year gross savings from the State's Codes and Standards program contributed 70% of the State's total gross electric savings and 48% of the gross natural gas savings.[2] It is completely unreasonable to expect the state to reach energy savings targets comparable to leading states without consideration of these savings- which are often found to be most cost effective long-term savings. As required by the CEA, energy savings from Codes and Standards efforts must be considered. Only after consideration of those savings can the Board reasonable determine what the appropriate share of the remaining targets should be for NJCEP and the utilities.

Regarding the allocation of savings in the Straw Proposal, which currently has NJCEP responsible for 25% of the energy savings target, it is not even close to an equitable distribution of the burden given the market segments that NJCEP proposes to retain. In fact, the most recent NJCEP Energy Efficiency and Renewable Energy Program Plan Filing Compliance Filing updated January 8, 2020 reflects a target annual electric savings for the current year of 865,144 MWH but approximately 71% of that target savings comes from three program categories the Proposal intends to keep as NJCEP programs- Residential New Construction, Commercial Pay for Performance New Construction and Retail Products. The utilities cannot be expected to deliver the majority of the energy savings yet be precluded from serving customers in some of the most robust energy savings categories. It is appropriate to revisit the proper allocation of the energy savings target after consideration of the energy savings from codes and standards and finalization of the programs that fall within the utilities' responsibility.

Appendix E Program Budget Parameters

The utilities strongly object to the framework proposed in Appendix E that attempts to set a range for reasonable costs to meet the energy savings targets based upon budgets and savings targets in nation-leading states of Massachusetts and Rhode Island. The Straw Proposal also suggests that annual budgets may vary but that target costs to achieve energy savings should remain constant throughout the period and included a range of +/-10% of the original cost estimates. There are significant concerns regarding what is reflected in this Appendix, including:

- There is no precedent for setting parameters that could bind the utilities ability to meet their share of the energy savings target or create a potential barrier to reaching all cost-effective energy savings. The concept of a cap on cost to achieve savings, not tied to the value of the benefits generated from those savings is contrary to both the letter, and the spirit, of the Clean Energy Act ("CEA"). Indeed, the CEA states that utilities shall be required to achieve annual reductions in energy use ". . . . until the reduction in energy usage reaches the full economic,

[2] Energy Efficiency Portfolio Report, California Public Utilities Commission, May 2018

cost-effective potential in each service territory. . . ."[3] This cap would inhibit the utility from pursuing economic, cost-effective energy efficiency simply because of a cap on the cost of pursuing those savings, irrespective of the value of the benefits associated with those savings. Take for instance the Co-Managed Residential Electric cap of $0.16 in annual, or first-year, kWh savings. A common product in this sector is a smart thermostat, which has a 15-year measure life[4], meaning the cost of electric savings alone would be slightly over $0.01 over the lifetime of the measure, far below the value of the benefits generated for those same savings. By artificially limiting the cost to achieve savings, New Jersey will be leaving money on the table for its residents.

- A cap on the cost to achieve is unnecessary when there exists a better tool to measure the appropriate cost for a program, namely the primary cost-benefit test. The Societal Cost Test ("SCT") is the appropriate primary test for the first three years of the program (as discussed in more detail later in this document), and will serve to ensure that programs are designed to generate benefits, including both economic and environmental factors, in excess of the costs of the programs.
- It is not appropriate to judge potential costs to achieve energy savings in New Jersey based upon costs to achieve energy savings in another state, especially when the other states are national leaders who have maintained a consistent approach to energy efficiency for more than a decade and who have the benefit of a more mature market with a broad range of engaged trade allies.
- The cost caps were developed based on the nationally leading programs in Massachusetts and Rhode Island, not taking into account these are established programs with an existing level of customer awareness, networks of trade allies, IT infrastructure, and other program elements that allow for cost-efficiencies. While New Jersey is equipped to join these Massachusetts and Rhode Island as a national leader, it is not realistic to assume it will do so in the early years of its new energy efficiency programs, and should not be limited to costs to achieve similar to those states.
- Further, New Jersey will be facing a significant ramp up in energy efficiency, including significant costs to build a robust trade ally network and improve customer outreach and engagement. The increasing size and scope of programs comes with added costs, concentrated in the early years of the program, that will generate long-term benefits for New Jersey. Instituting these caps will inhibit the ability for utilities to invest in the future of its programs. This will have long-term negative impacts on the programs, as growth will need to be tempered against the immediate costs.
- New Jersey is placing a significant policy focus on serving the needs of hard to reach customers. While the chart separately addresses estimated costs for low income programs, it does not reflect separate consideration of striving for equitable participation from moderate income customers or small business customers.
- All utility energy efficiency filings must comply with the Minimum Filing Requirements, including specific information regarding proposed costs for all programs. Those filings are subject to a thorough review by BPU staff, the Division of Rate Counsel and other stakeholders.

[3] Clean Energy Act, P.L. 2018, Chapter 17, pg. 15

[4] Massachusetts Technical Reference Manual, 2016-2018

Utilities must acquire the energy savings to meet their share of the mandated energy savings target and will justify the proposed costs. They cannot be held to additional cost restrictions that could limit their ability to reach the energy savings target or other policy objectives.

Normalized Usage

Regarding the calculation itself, the Straw Proposal calls for the percentage target reduction will be based upon the average load of the prior three years. Given the significant variability of weather on an annual basis, the utilities believe the calculation should be clarified and based upon a three-year average of weather-normalized load rather than a three-year average of actual load. This approach is consistent with the CEA's requirement that, "[i]n establishing [QPIs], the board shall use a methodology that incorporates weather" among other things. Some of the utilities have analyzed the two approaches using recent data and found that using an average of actual usage could result in year-over-year variation of more than 5% for the annual target reduction. Having the energy savings target vary significantly from year-to-year simply due to weather is unreasonable and in conflict with efforts to build a stable environment for advancing energy efficiency.

Approach to Evaluation

The utilities appreciate that Board staff took into consideration significant stakeholder feedback from the December 18, 2019 stakeholder meeting and generally support the Straw Proposal's approach to evaluation. The hybrid approach that allows for both utility specific evaluators and a statewide evaluator will help create an environment where utilities can get actionable feedback from evaluators as soon as possible to improve their program delivery and the state can also have an advisor to help monitor current and pending evaluations and reports and advise them as needed.

Minimum Filing Requirements

The utilities would like to share several suggestions on the proposed Minimum Filing Requirements (MFR) reflected in Appendix F.

- The utilities believe that Requirement IIxv is unnecessary in light of the Energy Master Plan and Clean Energy Act which requires the implementation of energy efficiency programs to meet very aggressive mandates. Given the extensive discussion regarding the core and other energy efficiency programs that has occurred through the stakeholder meetings over the past year and through feedback on the various Staff proposals within this proceeding, Requirement IIxv should only apply to new initiatives. There has clearly been adequate discussion of how energy efficiency programs relate to New Jersey energy policy so it would not be a productive use of utility time to develop such a narrative and BPU staff/stakeholder time to review such materials. Accordingly, we ask that this MFR be adjusted to reflect this approach.
- Given the compelling rationale to postpone the review of the Resource Value Framework and only use the Societal Cost Test in the interim due to timing considerations, the Requirements in Section V should drop the references to the New Jersey specific test.
- The utilities support Staff's proposal to shift the consideration of market barriers, job creation and environmental emissions savings to the EM&V process rather than required them as MFRs.
- Section Vf of the MFRs calls for the utility filings to estimate and reflect any free rider and spillover effects in the cost effectiveness calculations. The utilities strongly object to the suggestion in the Straw Proposal to use an arbitrary 0.84 net to gross value for all programs except for low-income programs. In 2019, the New York Department of Public Service issued clean energy guidance to utilities and NYSERDA and moved to a verification of gross savings for

reporting performance of energy efficiency programs. The process also emphasizes EM&V activities that produce results that inform the program portfolio design in a timely manner. Furthermore, gross savings should be used as they reflect the true impact on the electric grid and should be used to inform planning decisions for infrastructure investment, whereas net savings would only serve to unnecessarily dilute the impact of energy efficiency and drive infrastructure investment that may not be needed.

Timeline and Recognition of Planning Costs

Throughout this proceeding, the utilities have expressed concern about the compressed timing between when the Board will issue their final decision and the due date for utility filings. We recognize that the Board must leave sufficient time to conduct a thorough review of the utility filings but the utilities must also be provided with adequate time to prepare the filings. Based on prior experience, our utilities note that preparing for an energy efficiency program can take between six to twelve months for a traditional filing by a single utility. It will be considerably harder to prepare this filing given the anticipated level of coordination expected between the utilities and thoughtful consideration of market impacts with the transfer of responsibility for existing NJCEP programs.

We urge the BPU to maximize the amount of time available to the utilities to prepare this significant filing. The Straw Proposal references two different due dates for the submission of the utility filings. Page 19 of the Straw notes a late Summer 2020 submission and Page 55 references a Fall submission. Given the extensive amount of work required to prepare this multi-year filing that calls for significant coordination, they utilities propose the following:

- Filings to be submitted by October 31, 2020
- Window for the 180-day review period would run from November 2020 to April 2021- leaving sufficient time for Board approval 30 days prior to the start of the energy year.

An October 31st due date for the filing would still reflect an incredibly ambitious schedule for the utilities to prepare robust and coordinate filings and meet the Fall timeline referenced in the Straw. Any efforts to severely compress the timeline for preparation of the filing will hamper or preclude the utilities ability to prepare coordinated filings, especially given the consideration that all of the utility staff currently working on energy efficiency are facing significant burdens trying to properly serve and advance the market during this pandemic in order to support trade allies and customers.

While the Straw Proposal does not specifically reference it, the utilities urge the Board to provide clear language that authorizes the utilities to begin accruing planning and program development costs. Given the expedited timeframe to prepare the filing and the significant interest in ensuring utility coordination, utilities will need to hire consultants and potentially additional staff to coordinate and prepare the filings and be ready to start launching programs by July of 2021. In fact, several of the utilities do not currently have dedicated staff for energy efficiency policy and program work in New Jersey. This authorization is critical to ensuring that the utilities are appropriately resourced to meet the new regulatory obligations. Further, this request is consistent with industry practice. Consider these excerpts from a recent energy efficiency order in Pennsylvania:

> *"…Administrative costs would also include, but not be limited to,* ***costs relating to plan and program development****, CSP non-incentive program delivery fees, cost-benefit analysis, measurement and verification and reporting."*
>
> *"As in prior Phases, we propose for Phase IV that EDCs be permitted to recover both the ongoing costs of its plan,* ***as well as incremental costs incurred to design, create and obtain Commission approval of the plan****. However, all costs submitted for recovery in an EDC's plan would be subject to review by the Commission to determine whether the costs are prudent and reasonable and are directly related to the development and implementation of the plan."*

The NJUA and its members look forward to continued participation in the refinement of the Straw Proposal, which we believe is critical if the Board wants to ensure achievement of the aggressive goals set out by Governor Murphy, the Legislature and the Board. We appreciate the significant amount of stakeholder discussion and dialog that has occurred thus far, and we anticipate continued discussion with Board staff and members of the Energy Efficiency Advisory Group to further refine the proposal. Thank you for the opportunity to comment on this very important matter.

Sincerely,

Thomas R. Churchelow
President

NEW JERSEY UTILITY SHAREHOLDERS ASSOCIATION

117 North Church Street • Moorestown, NJ 08057 • (856) 840-4187 • NJUSA.US

April 13, 2020

Ms. Aida Camacho-Welch
Secretary of the Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, New Jersey 08625-0350

Subject: "Energy Efficiency Transition - Full Straw Proposal"

Dear Secretary Camacho-Welch:

I am writing on behalf of the members of the New Jersey Utility Shareholders Association (NJUSA). NJUSA is a not-for-profit association of New Jersey residents who are investors in one or more of the publicly traded entities that have a subsidiary providing essential utility service in New Jersey. Our members choose to join NJUSA to learn more about and advocate with other interested New Jersey utility investors on issues that can affect the value of their investments. NJUSA membership is extended only to individual investors residing in the State; institutional investors are not eligible to be NJUSA members.

NJUSA members come from all regions of the State and from many walks of life. Many NJUSA members are senior citizens who rely on their utility investments to supplement their often limited income in retirement. As New Jersey residents and utility shareholders, NJUSA members are directly invested in New Jersey through their ownership of utility stock—utility shareholders essentially are the owners of the "rate base" assets through which service is provided and upon which a fair return on investment is expected. It is through these investments that utility shareholders make possible the essential electric, gas, water and wastewater utility services upon which New Jersey's health, quality of life and economy depend. It is these same shareholders who, if appropriately incentivized, can help provide the financial wherewithal for New Jersey's electric and gas utilities to make the all-important energy efficiency investments required by the Clean Energy Act of 2018 (CEA).

As shareholders, NJUSA members are often misunderstood to be among the most privileged and wealthy citizens. The truth is, NJUSA members are New Jerseyans from all walks of life. Some are former utility employees--retired secretaries, linemen and women, managers, customer service representatives and meter readers, among others. Some never worked for a utility, but have retirement funds in a pension or 401(k) plan that contain utility stocks. Or, as often happens, heard from a family member years ago that utility stocks are a good, stable investment that offer the opportunity to earn a fair return on the dollars invested with the possibility of dividend payments—a potential source of income in later years.

We appreciate the considerable work staff has accomplished to advance the State's energy efficiency goals under a very aggressive schedule. We also appreciate that some of the concerns we raised previously, for example, lowering the basis point penalty, were considered. Unfortunately, missing still

is an understanding of why people like the New Jerseyans NJUSA represents, choose to put their limited investment dollars in New Jersey utilities.

There is one overarching consideration we hope the Board will factor into the final structure of the Energy Efficiency Transition—***the health and wellbeing of all New Jersey's residents and businesses depends on the ability of New Jersey utilities to attract and retain investment capital.*** Accordingly, our comments focus on four areas of the Final Straw Proposal that, in our view, absent modification, will discourage investment and will diminish the ability to meet both traditional infrastructure needs and the new energy efficiency goals.

1) The ROE. The ROE deduction for energy efficiency investments makes a *dollar spent on energy efficiency less valuable than a dollar spent on pipes and wires*. The deduction is contrary to the belief Staff expressed on page 10 of the Straw Proposal: "… that, while required by statute, energy efficiency programs will not ultimately be successful if the proposed mechanism negatively impacts a utility's economic bottom-line …or if such programs are considered a less attractive investment than traditional infrastructure." This is a disconnect that must be remedied if the programs are to succeed.

Also, the proposed ROE construct rests on a faulty premise, "to reflect the reduced risk associated with guaranteed, contemporaneous recovery of program investments." That tradeoff is apt in the context of traditional infrastructure investments where most of what affects the utility's performance is within its control. Utility shareholders are familiar with utilities' management of operational and regulatory risk attendant to infrastructure investments. *But there is no similar base of experience for shareholders to anticipate utility performance under mandatory energy efficiency programs.* Considering the order of magnitude increase in participation needed to meet the energy efficiency goals, and the prospect of a deduction to the ROE *even if performance targets are met*, shareholders will likely view investment in New Jersey's electric and gas utilities to have become considerably more risky and less attractive than before. For utility shareholders, a dollar invested in energy efficiency that is less valuable than a dollar invested in traditional infrastructure projects is a disincentive to continued or new investment. Under the current proposal, there is no clear or compelling reward for shareholders to fund these programs, and thus no reason to expect they would choose to do so. ***We therefore urge the Board to eliminate the ROE deduction so as to remove this disincentive.***

2) The penalties and incentive structure. For shareholders, performance targets with penalties that are not informed by New Jersey-specific experiences exacerbates the perception of risk associated with investment in New Jersey utilities performing mandatory energy efficiency programs. A penalty structure informed by a base of real-world experiences can enable the utilities not only to demonstrate what is achievable in their service territories, but also for the Board and the utilities to see the real world implications on capital availability. It can also avoid judging utility performance during the transition period against standards not reflective of actual New Jersey experience when there will undoubtedly be unforeseen challenges. ***We therefore urge the Board to use the first Triennial period to establish a performance baseline for each utility's service territory.***

3) The amortization period. Why 7 years? A longer amortization could be beneficial both to shareholders, who could earn a return over a longer time, and to customers, whose bill

impacts would be minimized. This is yet another way to encourage—or, if set too short—discourage, investment.

We urge the Board to view the amortization period as another way to encourage investment and utilize an amortization period that matches the life of the investments consistent with the long-standing regulatory principle of matching costs with benefits.

4) Lost revenue mechanism. The proposal puts in place a limited revenue adjustment mechanism (LRAM) that recovers the impact of utility-run efficiency programs only. It also allows the Conservation Incentive Program (CIP) mechanism to continue and encourages electric utilities to adopt a CIP. However, the LRAM puts utilities at risk of not recovering the impacts of the programs that are run by others and thus not within their control. Further, the LRAM does not recognize the fact that the circumstances present when the existing CIPs were instituted are not comparable to the circumstances that exist today. The aggressive goals and performance mandates that exist today did not exist when the original CIPs were created. The difference is even more stark in light of the proposed penalties and ROE reduction. Given these realities, ***we urge the Board to create a lost revenue mechanism that: 1) takes into account current day challenges, 2) addresses shareholders' expectation that utilities be able to earn their allowed return, 3) ensures utilities are made whole for the impacts of the State's aggressive energy efficiency goals and 4) does not expect shareholders to meet onerous "skin in the game" requirements.***

Finally, no one could have predicted the crisis presented by COVID-19. Uncertainty in all aspects of life reigns. When will social distancing end? When will the economy recover? Will there be extraordinary weather events that interrupt utility operations? Will contractors be fully staffed and ready to start their programs? Will utilities' parent companies have weathered the stock market rollercoaster ride of 2020? In the aftermath of the pandemic, will large numbers of New Jerseyans be ready to accept utilities' offers to save energy and money and be willing to let strangers into their homes? Will businesses struggling to resume operations have energy efficiency as a priority?

However challenging it might have been to meet the targets under a growing economy, there should be no question that under an economy that will need to be rebuilt, the goals are likely to be even harder to achieve than anyone would have thought just a few weeks ago. ***We urge the Board to be especially cautious in these uncertain times and avoid sending the wrong signal to utility shareholders by creating an energy efficiency program construct that discourages investment.***

We hope you will work with the energy utilities to build programs with incentives that will encourage energy efficiency and other critically needed investments. That there are utilities with energy efficiency proposals already pending before the Board is evidence that there is a strong interest in helping to invest in clean energy and add jobs to the economy. With the right incentives, utility shareholders can be a critical source of capital to support the continued provision of safe and reliable service and achieve New Jersey's clean energy goals.

Thank you for the opportunity to share our views.

Sincerely,

Karen D. Alexander

President

April 10, 2020

Aida Camacho-Welch, Secretary of the Board

Board of Public Utilities

44 South Clinton Avenue, 9th Floor

Post Office Box 350

Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team

Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

- Program Goals: The plan document states, ”While maintaining statewide consistency of energy efficiency and peak demand reduction programs.” In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    - Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

- Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal’s following Core Programs:

    - Home Performance with ENERGY STAR.
    - WARMAdvantage.
    - COOLAdvantage.
    - Pay-for-Performance.
    - Direct Install.
    - SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry’s participation, therefore having the unintentional consequence of not meeting this proposal’s goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

- Accessibility to all programs to all contractors in all territories.

- Incentive offerings must be indistinguishable across utilities.

- One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

- Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

- Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

- Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

- Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

- Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

- Question 1: Will the BPU ensure all contractors will have equal access to all programs.

- Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

- Question 3: Will the BPU insist that each utility utilize the same software platform?

- Question 4: Will the BPU require program paperwork, financing, incentive application as well as claiming these items at a project completion be seamlessly identical throughout New Jersey's utilities?

- Question 5: For programs with a financing option, will the BPU require that payment timelines for project financing (if not on-bill) and rate payer incentive payment be the same across all utilities?

- Question 6: How will the BPU ensure uniformity in applications, payment timelines and procedures?

- Question 7: How will the BPU ensure that projects in overlapping gas/electric utility territories receive just one project QA inspection and ensure consistency?

- Question 8: Would the BPU allow fuel conversions and if yes, how would they be managed?

- Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We

respectfully request answers to determine if we can throw our support behind the Straw Proposal.

- Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration……., it is critical that the program designs, including eligibility and evaluation requirements, **are consistent** across the state. **Offering the same** core programs across the state will streamline program offerings for specific market sectors, ensure effective marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

- Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

- Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

- Question 1: When the document states "not required" does that mean they can vary or eliminate a current core program currently offered or that the utilities will be allowed to alter its current design?

- Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

- Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

- Statement 3: ”Following the filing of consistent programs, utilities should continue to collaborate in order to implement programs in a **similar** manner and should develop supportive processes, such as consistent procurement processes, procedures, requirements, and forms. This will be especially important in locations where gas and electric service territories overlap.”

    - Question: Is there a plan in place to ensure the collaboration between utilities happens? Is this an opportunity for NJ ACCA to assist?

- Statement 4: “The Board identifies the programs that must be delivered consistently statewide by all utilities, and the individual utilities each hire implementation contractors to implement the programs.”

    - Question: How will the board ensure equity across all utilities and through implementation?

- Statement 5: “Staff believes that, while all of these models may work for various programs, the key format for New Jersey is that the utilities collaborate, with **input from BPU and stakeholders**, on program design, requirements, etc. and deliver consistent core programs on a statewide basis.”

    - Question: Will the contracting community also participate, and will the outcome of this collaboration result in seamless consistency of programs across all utilities and will benefit the ratepayers, stakeholders and contractors equally?

- Statement 6: “Stakeholders emphasized the need for programs to be nimble in responding to market shifts without undergoing a full regulatory proceeding. While **strong oversight of programs** must also be maintained,

Staff recommends allowing utilities…… Utilities will be permitted to make minor adjustments to program design with Staff approval."

- Question: To ensure consistency, will these nimble adjustments be implemented by all utilities at the same time?

- Statement 6: "Budget Shifts Within a Sector: Sectors are any grouping of programs that focus on similar target markets, including but not limited to: residential, commercial and industrial, multifamily, low income, and small business. Utilities will be able to **shift budgets up to 10%** of the individual program budget between or among programs in the same sector with Staff notification; this applies only to an individual utility's budget in situations where the shift would not result in a change to the utility's overall budget. For **budget shifts ranging from 10%-20%** between or among programs within a sector **Staff approval will be required for proposed budget shifts exceeding 20%**."

- Question: Could it be possible for one utility to adjust or exhaust a core program's budget that would result in a ratepayer in an overlapping utility territory to be shut out of a core statewide program offering?

- Statement 7: "Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval**. Any adjustments exceeding **40% of approved levels will require full Board approval**."

- Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues, what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Scott Nelson

President

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April 13, 2020

New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Submitted via email: EnergyEfficiency@bpu.nj.gov

Re: Comments on Spring 2020 Straw Proposal for New Jersey's Energy Efficiency and Peak Reduction Program, Docket No. QO19010040.

Introduction

First, we would like to thank the New Jersey Board of Public Utilities for continuing this vital process in such uncertain and troublesome times.

The signed on organizations ("Commenters") are pleased to submit these comments in response to the New Jersey Board of Public Utilities ("BPU" or "Board") Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs (hereinafter, "Straw Proposal"). The Straw Proposal is the culmination of more than a year of stakeholder meetings convened by the Board aimed at creating new and expanded energy efficiency programs, as required by the Clean Energy Act of 2018 ("CEA").

In May 2018, New Jersey took two important actions to establish itself as a leader in clean energy. First, Governor Murphy signed Executive Order No. 28 (E.O.28), which directed the BPU in partnership with other state agencies to develop a comprehensive blueprint for the total conversion of the state's energy production to 100% clean energy by 2050. Concurrently, the New Jersey Legislature passed and Governor Murphy signed the CEA. As the State continued to blaze an ambitious path forward, the release of the 2019 Energy Master Plan ("EMP") offered a concrete framework for these goals.

Energy Efficiency is one of the cheapest, quickest, and most effective ways for New Jersey to meet its goals and obligations under the CEA, EMP, and Global Warming Response Act ("GWRA"). Moreover, investments in energy efficiency will create a thriving local workforce of jobs that cannot be outsourced, while lowering energy costs for New Jersey's residents and businesses.

For a little over a year now, the BPU has been convening stakeholder meetings and requesting comments to establish a comprehensive, equitable, and forward-looking energy efficiency plan for the state. The Commenters have been deeply involved and present these comments with the hope of improving upon the great work that Staff has done. These suggestions seek to ensure energy efficiency programs are enacted equitably and to place New Jersey as a leader in not only energy efficiency but clean energy and climate change goals as well.

1. Better align the straw proposal with the state's climate and clean energy goals by considering and incorporating the goals outlined in the Energy Master Plan and the tools needed to get there: beneficial electrification and reducing GHG emissions.

2. Ensuring that the new energy efficiency programs proposed by utilities have sufficient budgetary flexibility to innovate and meet their energy efficiency targets by removing artificial cost constraints, such as those proposed in Appendix E, that may inhibit the achievement of the state's energy efficiency goals.

3. Make permanent the Energy Efficiency Advisory Group ("EEAG") by expanding the number of stakeholders, providing it with more formal authority over program design, evaluation, and iteration, and providing it with the necessary financial resources and contracting authority to secure outside experts and consultants to assist it in the course of its duties.

4. Identify concrete next steps for Low Income and Multifamily Programs in the state, including incorporating a whole-home approach and other best practices from leading states.

5. Designing a cost recovery structure that places utility investments in energy efficiency on par with traditional capital expenditures while ensuring ratepayers of all customer classes are sufficiently protected from any unreasonable cost increases.

6. Clarify that the CEA requires a single primary cost-effectiveness test that includes environmental attributes, and that the only existing test that meets the requirements of the CEA is the societal cost test.

7. The Straw Proposal needs to hold state programs accountable on the same level as utility-run programs and clarify roles and expectations for program administration.

Below we have elaborated further on each of these points.

1. **Better align the straw proposal with the state's climate and clean energy goals by considering and incorporating the goals outlined in the Energy Master Plan and the tools needed to get there: beneficial electrification and reducing GHG emissions.**

New Jersey statute, executive orders, and EMP make clear that climate change and GHG emissions reduction is a number one priority for the state. As written in the EMP, the state is moving towards a clean energy future, with plans to have zero emissions by 2050 through electrifying buildings and transportation. Robust energy efficiency programs can help to achieve these climate goals.[1] However, the current straw proposal does not acknowledge the role energy

[1] Steven Nadel and Lowell Ungar, Halfway There: Energy Efficiency Can Cut Energy Use and Greenhouse Gas Emission in Half by 2050, September 2019, American Council for an Energy-Efficient Economy. Available at https://aceee.org/research-report/u1907.

efficiency programs can play in meeting the state climate and clean energy goals, and threatens to miss out on cost and climate saving opportunities as a result.

We suggest the following changes to the Straw Proposal to better harmonize it with the State's clean energy goals:

a. Ensure GHG reductions play a more central role in the EE plans by adding GHG or primary Btu as measurement metric.
b. Address the absence of heating from existing heat pump programs and explicitly requiring utility and state programs to offer heat pump programs that provide both heating and cooling.
c. To ensure Climate Change and GHG emissions reduction goals play a more central role in the EE plans and metrics, we recommend measuring GHG reductions or BTUs saved as a reported metric.
d. Proposed Combined Heat and Power programs must be required to demonstrate a net GHG reduction over their lifetime.
e. Adopt full symmetrical decoupling as the cost recovery mechanism as it ensures that utility shareholders' concerns will align with state energy and environmental policy. [See section 4].

a. Ensure GHG reductions play a more central role in the EE plans by adding GHG or primary Btu as measurement metric.

The Energy Master Plan expressly recognizes that the core goal of New Jersey's energy transition — 100% clean energy — is closely related to economy-wide emissions performance. Energy efficiency is one of several tools for achieving that:

> "The EMP defines '100% clean energy by 2050' to mean 100% carbon neutral electricity generation and maximum electrification of the transportation and building sectors (the sectors that produce the greatest carbon emissions in the state) to meet or exceed the GWRA emissions reductions by 2050. Energy system modeling conducted for the EMP found that New Jersey can cost-effectively reach its goals of 100% clean energy and reduce its greenhouse gas emissions below the GWRA target largely through electrifying the transportation and building sectors, promoting energy efficiency, and meeting more than a doubling of load growth with 94% carbon free electricity (the remaining 6% can be provided with carbon neutral electricity)."[2]

This Straw Proposal makes reference to this framing in the EMP *as if* it were of central importance, but does not follow through on that promise. On page 8, the Straw Proposal provides a list of seven "primary proposed objectives" – none of which mentions emissions or even "clean energy" – but the document couches these objectives as being in *addition to* "setting New Jersey on a path to 100% clean energy by 2050 as laid out in the Energy Master Plan."[3]

[2] 2019 New Jersey Energy Master Plan: Pathway to 2050, at 11-12, available at https://www.nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf. [hereinafter "2019 EMP"]
[3] New Jersey Board of Public Utilities, Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs, Spring 2020, at 8. [hereinafter "Straw Proposal"]

On its face, the phrasing in the Straw Proposal would seem to suggest its vision of the path to 100% clean energy is absolutely primary – that this will be the north star that orients the document – and that the bulleted lists of "primary proposed objectives" (none of which mention emissions reductions) must necessarily play a supporting role. But as the document unfolds, this is not the case. Rather, after a brief mention in the introduction, greenhouse gas emissions are scarcely mentioned throughout the document and do not appear to inform the program design (as evidenced by the absence of any provision for electrification in the Straw Proposal, as further discussed below).

As we will demonstrate, this omission has substantive ramifications. By not remaining focused on the need to leverage energy efficiency programs as a tool for achieving 100% clean energy, the Straw Proposal risks endangering the achievability of that overarching goal. To ensure that New Jersey's energy efficiency and peak demand reduction programs in fact contribute to moving New Jersey in the direction of 100% clean energy by 2050, the final program that is ultimately promulgated should be more explicit and consistent in placing specific initiatives in the context of 100% clean energy and the GWRA emissions reductions that that implies.

b. Address the absence of heating from existing heat pump programs and explicitly requiring utility and state programs to offer heat pump programs that provide both heating and cooling.

As noted in the Energy Master Plan[4] , "maximum electrification" of the building sector is a key component of the 100% clean energy vision. Yet, like the emissions reductions required by the GWRA, electrification of the building sector is largely sidelined throughout the straw proposal, despite the fact that electrification technologies like electric heat pumps are efficiency measures and are, as stated in the EMP, "more efficient than direct combustion of fossil fuels for heat."

New Jersey's Integrated Energy Plan ("IEP") modeling suggests that construction of all-electric buildings begin in 2025[5] and assumes that existing buildings begin to be retrofitted and electrified aggressively starting in 2030.[6] As this trend gains momentum, many conventional gas energy efficiency measures will make less and less sense, as fuel switching to electricity will provide greater emissions benefits. To prepare for aggressive electrification, the energy efficiency program must initiate the building electrification transition now, not in subsequent years.

The final Board Order on the new energy efficiency program must explicitly address the absence of heating from existing heat pump programs. Other electrification incentives must be made available for all customers, including those switching from heating oil or propane to electricity. Additionally, the path to a rapid adoption of beneficial building electrification and a broadened evaluation of the long term role of natural gas must be priority issue areas for study and planning by an expanded and empowered EEAG as further described below in point 3.

[4] 2019 EMP at 11-12.
[5] 2019 EMP at 160.
[6] 2019 EMP at 160.

c. To ensure Climate Change and GHG emissions reduction goals play a more central role in the EE plans and metrics, we recommend measuring GHG reductions or BTUs saved as a reported metric.

Generally, staff should ensure that metrics can change and adjust awards for performance for achieving or exceeding other state goals and policies beyond energy reduction. For example, New Jersey is on a trajectory to electrify the building and transportation sectors, which could increase demand on the grid. This means that the current metrics of annual and lifetime savings may become obsolete. To avoid this, the state should incorporate metrics that measure GHG reductions or BTUs saved.

The state has identified that an EM&V Objective will be the "[o]bjective measures of progress towards State policy and program goals, and performance incentive or penalty metrics."[7] The BPU should use these programs to incentivize utility buy-in and support of these goals, such as beneficial electrification, and create a foundation for holistic evaluations of the long term GHG and cost savings from such efforts. As a result, utilities will prioritize infrastructure that aligns with the State's clean energy policies.

Additionally New Jersey has legislation that identifies how the state should measure carbon and reduction in climate change emissions.[8] For additional guidance on how to achieve these measures the BPU can look to ACEEE, which just released a paper that examines different states' approaches to aligning energy efficiency programs with climate objectives.[9]

d. Proposed Combined Heat and Power programs must be required to demonstrate a net GHG reduction over their lifetime.

Combined heat and power technologies and fuel cell technologies run on fossil fuels, primarily natural gas. In light of New Jersey's commitment to 100% Clean Energy by 2050, however, the role of natural gas in New Jersey's future economy is currently unclear. As such, it is troubling to read in the Straw Proposal that "NJCEP supports the statewide growth" of these technologies, as this support does not seem to be rooted in any empirical analysis finding that the growth of these technologies would be consistent with the state achieving its greenhouse gas emissions and clean energy goals in a cost-effective manner. Combined heat and power can represent an efficiency gain over combustion for heat without also generating electricity, but its environmental benefit as an electric resource on the future system is unclear.

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[7] Straw Proposal at 45.
[8] New Jersey Bill S-3215 (115th-116th), signed into law January 13, 2020, (requires the DEP, BPU, and all state agencies to use a 20-year time horizon in addition to a 100-year horizon to more accurately calculate the global warming potential of greenhouse gas emissions).
[9] Gold, Gilleo, and Berg. 2019.. *Next Generation Energy Efficiency Resource Standards.* https://www.aceee.org/research-report/u1905

The State is aiming for 100% Clean Power by 2050,[10] which means that it needs to pursue fossil-based electricity with caution as it is likely to be counterproductive to these future plans.[11] Moreover, to the extent that natural gas-fired generation, or other combustion-based generation, has a role to play on the future high-renewables grid, it is likely that that role will consist largely of providing the flexibility needed to integrate high levels of intermittent renewable generation; unfortunately, combined heat and power as we know it — while arguably efficient — is poorly suited to serve that function.

The Commenters propose that New Jersey should require any Combined Heat and Power programs to demonstrate a net GHG reduction over their lifetime to ensure that they do not deter the State from other climate goals, particularly in light of the stranded cost risk posed by over-investment in such resources and infrastructure in the near term.

2. **Ensuring that the new energy efficiency programs proposed by utilities have sufficient budgetary flexibility to innovate and meet their energy efficiency targets by removing artificial cost constraints, such as those proposed in Appendix E, that may inhibit the achievement of the state's energy efficiency goals.**

The Commenters are concerned that the cost caps outlined in Appendix E are problematic for New Jersey because such a policy could artificially limit a utility's ability to invest in cost-effective energy efficiency, and even prevent a utility from hitting its statutorily-mandated energy efficiency targets. The impact of the cap has been devastating in Pennsylvania, where an American Council [12]for an Energy-Efficient Economy study found that removing the spending cap would have saved customers an additional $240 million dollars a year and created 30,000 jobs.[13]

In particular, the Commenters disagree with the Straw Proposal's usage of Massachusetts and Rhode Island as a basis for informing New Jersey's cost to achieve electric and gas saving because those programs are more mature and cost-efficient than New Jersey's programs have been. As stated previously by NRDC, it appears that in 2018 the cost per kWh saved in New Jersey was nearly $0.50, compared to Massachusetts average cost per kWh saved of $0.39 in the same year. If New Jersey's historic performance were to be applied to the Appendix E cost ranges, no state, utility, or co-managed programs would achieve even the high estimates of cost to achieve.

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[10] 2019 EMP Strategy 2.1.

[11] We are unaware of current research addressing this question for New Jersey, but research in California shows that as that state continues to add clean energy resources to its grid, conventional fossil fuel-based CHP systems are *already* becoming net GHG emitting, especially when operated inefficiently. Sonika Choudhary, Sam Wade and Ray Williams. "Evaluating the GHG Performance of CHP Systems: A Summary for Californian Policymakers". CRRI Annual Western Conference, June 2013. http://www.energy.ca.gov/chp/documents/2014-07-14_workshop/PGandE_CRRI_CHP_paper-June_2013.pdf

[12] *See*, Natural Resource Defense Council, Comments on New Jersey's Energy Efficiency Transition, Program Administration, at 5 (Oct. 4 2019).

[13] Annie Gilleo and James Barrett, Lifting the Cap: Estimating the Economic Impacts of Energy Efficiency Investments in Pennsylvania, April 2019, ACEEE White Paper, Available at https://aceee.org/sites/default/files/pa-jobs-040419.pdf.

Additionally, program costs for new projects are typically greater in the beginning of program cycles, when utilities are contracting with new program administrators and standing up programs for the first time. Therefore, it is likely that costs could be even greater than the historic level in year 1-3, and taper off as the state and utilities gain expertise in administering more advanced energy efficiency programs.

As an alternative to the cost caps contained in Appendix E, the State should rely on the Benefits Costs Analysis/Cost Effectiveness test as means to ensure financial accountability for these programs. The state should encourage utilities and other program administrators to invest in energy efficiency programs so long as they pass the societal cost test. This ensures that every dollar spent results in more than a dollar of value to New Jersey's ratepayers and residents, while maintaining the necessary flexibility to start new and innovative programs in the state.

However, to the extent the BPU decides to proceed with any type of cost limitations, the Commentors recommend that the requirements for the state and co-managed programs be identical to those placed on utilities. This includes the requirement in Appendix E that "utilities should file programs whose costs fall within the below-detailed sector-based cost to achieve ranges.[14] Co-managed and state-run programs should be required to make the same showing of cost-efficiency in the filing stage.

3. **Make permanent the Energy Efficiency Advisory Group ("EEAG") by expanding the number of stakeholders, providing it with more formal authority over program design, evaluation, and iteration, and providing it with the necessary financial resources and contracting authority to secure outside experts and consultants to assist it in the course of its duties.**

The Commenters strongly urge the BPU to follow the example of other leading states, and make the EEAG the central stakeholder group for all potential energy efficiency issues moving forward, as well as expand the number of stakeholders in the group, provide it with the necessary financial resources to secure expert consultants, and formalize its recommendation process to ensure it has meaningful impact on the direction of energy efficiency programs in the state. Section f(1) of the CEA States:

> As part of the stakeholder process, the board shall establish an independent advisory group to study the evaluation, measurement, and verification process for energy efficiency and peak demand reduction programs, which shall include representatives from the public utilities, the Division of Rate Counsel, and environmental and consumer organizations, *to provide recommendations to the board for improvements to the programs.*

(Emphasis added)

However, throughout the stakeholder process, the role of the EEAG was largely unclear to stakeholders who were not included in the group. For example, there was no formal mode of

[14] Straw Proposal at 85.

interaction between the EEAG and other stakeholders, no record of recommendations made by the EEAG to the BPU, no indication that the EEAG had the necessary resources to make well-informed recommendation, and no record of BPU responses to recommendations that may have been made by the EEAG. The Commenters believe this is a missed opportunity.

The Commenters are further troubled by the lack of specificity in describing the role of the EEAG in the future. In both the Program Administration Straw Proposal and Current Straw Proposal, Staff does not adequately explain the future role of the EEAG. In fact, any mention of the EEAG is largely limited to actions it has taken in the past, not its current or future role.

Therefore, the Commenters recommend that staff amend the Straw Proposal and role of the EEAG to make it more similar to states such as Rhode Island, Massachusetts, and Conneciticut. All of these successful energy efficiency states have collaborative, multi-stakeholder councils endowed with the ability to acquire and retain quality expert consultants to assist in the planning and implementation of energy efficiency programs.

For example, the Massachusetts Energy Efficiency Advisory Council has 11 members responsible for developing state energy efficiency plans through a consensus-based process for approval of plans and budgets. Further, the state energy office, DOER, sits as a non-voting member, and the Council employs technical consultants to offer impartial advice and review of proposed plans and budgets.

If BPU wants to foster an environment of innovation, statewide consistency, and success, which the Commenters believe it does, the BPU must expand the number of stakeholders on the EEAG, give it meaningful voting power, and provide it with the resources necessary to work on cutting-edge energy efficiency issues. Absent that, the Commenters are skeptical that New Jersey can meet the ambitious targets of the CEA.

4. **Identify concrete next steps for Low Income and Multifamily Programs in the state, including incorporating a whole-home approach and other best practices from leading states.**

It is clear that the Staff has responded to stakeholder feedback concerning how to ensure equitable access to energy efficiency programs across the State; however the Commenters recommend that the final straw proposal place significantly more emphasis on the issue of access.

While Comfort Partners is successful when it engages participants, it is limited in its reach. Establishing working groups to include input from various stakeholders is a step in the right direction, but we believe that more ambitious, concrete actions should be taken now, using object lessons from other states to start these programs. Therefore, we propose:

a. A sub-group of the EEAG comprised of stakeholders meant to address issues specific to these communities, such as the Connecticut Low-Income Energy Advisory Board.

b. Create a core program that incorporates a whole-home approach with dedicated funding to fix homes with health, safety, or structural issues, enabling all New Jersey residents to participate in energy efficiency and clean energy programs.
c. Include a carve out for Low Income and Multifamily sector Programs.
d. Remove income qualifiers from all programs and replace them with census tracts to qualify households for all health, safety, and energy programs.

a. A sub-group of the EEAG comprised of stakeholders meant to address issues specific to these communities, such as the Connecticut Low-Income Energy Advisory Board.

The Comfort Partners and Equity in Energy Efficiency group should be brought together as one group, like the Connecticut Low-Income Energy Advisory Board. Similar to the equity working group panel, stakeholders should include: community advocates, utilities, nonprofits, businesses, program evaluators, and staff.

The BPU should directly engage more Low Income and Multifamily stakeholders. To ensure that the State hears from LMI voices, the group should consider varying hours and formats and providing more advance notice to enable meaningful participation. It is not just Low Income and Multifamily programs that need to be more expansive by addressing chronic and systemic barriers, but all programs. The sub group should be sure to monitor programs in sectors beyond those specifically targeted to Low Income and Multifamily groups to ensure all aspects of the energy efficiency programs pursue broader objectives around equity in the process and outcomes. Such a working group could identify State policies and EE program integration issues that will impact these communities and potential avenues to mitigate them.

To address equity, the BPU should also look to prioritize public health and hospitals in LMI communities. Energy efficiency can reduce air pollution in frontline communities and provide a resilient infrastructure. To do this, the BPU can include public health as a "primary purpose objective." Additionally, a priority of the Equity Working Group should be identifying programs that help these communities; for instance, how energy efficiency programs support hospitals that serve LMI communities, Such hospitals are public health safety nets and are often in need of infrastructure investment.

b. Create a core program that incorporates a whole-home approach with dedicated funding to fix homes with health, safety, or structural issues, enabling all New Jersey residents to participate in energy efficiency and clean energy programs.

In LMI communities, where necessary home improvements are financially out of reach, the burden is even greater because structurally deficient homes not only disproportionality use more energy, they also prevent residents from participating in other energy efficiency and clean energy programs offered to them.[15]

[15] Herb, J. and M. Kaplan. 2019. Field Notes: Equity & State Climate Policy. Prepared for the RGGI Project Series: The Environmental Analysis & Communications Group, Rutgers University Bloustein School of Planning and

New Jersey, while leading the charge to a clean energy future, has no programs designed to address this inequity, which would exclude residents across the state from the cost-saving state- and utility-run energy efficiency programs yielded by the mandates of the Clean Energy Act. Additionally, studies done as part of the Energy Master Plan Process show that a whole-home energy efficiency approach provides benefits beyond bills. Structural upgrades and reductions in energy consumption create safe homes, better indoor air quality, and improvements in physical and mental health.[16]

BPU should look to incorporate RGGI funding into the energy efficiency plans, and use it to build safe homes. This would create a one stop shop that coordinates health, safety, and energy programs dedicated to reducing participation barriers for low-income communities. While the health conditions of a home largely determine whether residents qualify for energy efficiency programs, health, lead remediation, and energy programs continue to work in silos with different guidelines, intake, and requirements. It is essential that the State streamline these processes make eligibility criteria universal across all programs in order to increase access to energy efficiency programs. Utilizing RGGI money to fulfill this need will ensure that no citizens will be excluded from energy efficiency programs due to the condition of their home. Additionally, these programs will have direct economic benefits to participants through immediate energy savings and reductions on bills which will trickle out to job creation and economic growth in the surrounding communities and eventually the State. The BPU should look to Energize Delaware and Philadelphia's new Built to Last Program for examples of what these programs could look like.

c. Include a carve out for Low Income and Multifamily sector Programs.

Low-income households already face significantly higher energy burdens than more affluent households. Therefore, New Jersey must act by identifying more ways to target and reduce the burden in these communities in the administration of energy efficiency programs.
Even more so with low-income programs, regulatory oversight is critical to ensuring its administration's effectiveness and accessibility. If utilities will play a role in its management, the Board of Public Utilities should direct a funding allocation per year specifically for low-income households. Additionally, low-income programs should be exempt from any cost-effectiveness tests that doesn't account for the health and safety benefits of the programs.

d. Remove income qualifiers from all programs and replace them with census tracts to qualify households for all health, safety, and energy programs.

Public Policy, and the Rutgers Climate Institute, page 3 ("address household structural repairs that are needed to make dwellings eligible for federal weatherization programs"); Id. at 19. ("The most important component of an effective affordable multifamily program is providing property owners and managers with technical assistance throughout the retrofit process.").

[16] Karen W. Lowrie and Leigh Ann Von Hagen, The New Jersey Draft Energy Master Plan: Opportunities to Integrate Health and Health Equity, Bloustein School of Planning and Public Research, September 16, 2019, available at http://eac.rutgers.edu/wp-content/uploads/EMP-HIA-1.pdf.

Currently, income qualifications are set unreasonably low and prevent households that desperately need remediation from being eligible from programs. The result is that homes become unhealthier and more unlivable each year. By replacing income requirements with low income census tracts and opportunity zones, the state can ensure funding is funneled to low-income communities who need it and increase services to more residents.

5. Designing a cost recovery structure that places utility investments in energy efficiency on par with traditional capital expenditures while ensuring ratepayers of all customer classes are sufficiently protected from any unreasonable cost increases.

We recommend the state pursue a cost recovery structure that accounts for the increase in electric load that is likely to result from the clean energy and beneficial electrification plans of the state, while ensuring utilities pursue all cost-effective energy efficiency and support other clean energy initiatives that may impact their revenue stability.

Beyond energy efficiency, the state is currently pursuing robust policies in support of building decarbonization and electrification, electric vehicle deployment, nation-leading procurement of offshore wind resources, and a complete overhaul of its solar incentive program. These changes, along with others outlined in the EMP will have a profound effect on the utility business model. The current proposal puts forth a lost Revenues Adjustment Mechanism with the option of decoupling at a future date and 1% reduction in return on investments compared to other capital investments. While we appreciate the Staff's listening to stakeholder input and suggestion that decoupling could be proposed in a rate case, we feel that it is important for staff to establish full symmetrical decoupling as the preferred cost recovery mechanism for several reasons.

a. Full Symmetrical decoupling is clearly contemplated by the Clean Energy Act.

Staff is correct to state that the Clean Energy Act "clearly calls for utilities to file for the recovery of lost revenues attributable to the reductions in sales resulting from energy efficiency programs."[17] However, the commenters would like to identify that the Clean Energy Act explicitly contemplates and allows for the use of full symmetrical decoupling. The section of the CEA which refers to this directs that each utility file a petition with the BPU "*including but not limited to* recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules, which shall be determined by the board *pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1)*."[18] Section 13 reads "All electric public utility and gas public utility investment in energy efficiency and conservation programs or Class I renewable energy 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.*"[19] Therefore, commenters believe the plain language of the CEA allows for full revenue decoupling by including it as part of an enumerated list of rate treatment options.

[17] Straw Proposal at 40.
[18] N.J.S.A. §48:3-87.9(e)(1)(emphasis added).
[19] N.J.S.A. §48.3-98.1(13)(b)(emphasis added).

b. **Full Symmetrical Decoupling Will Provide A More Responsive and Accountable Ratemaking Mechanism Than the Proposed LRAM.**

The current ratemaking framework in New Jersey determines rates by dividing the utility's revenue requirement by predicted sales and holding these rates stagnant until the next rate case. If sales are greater than predicted, the utility will over-earn unless there is a rate case to readjust rates. Traditionally, it is extremely difficult for an interested party that suspects a utility of over-earning to trigger a base rate case and identify whether there should be a reduction in rates. An LRAM, as proposed by the Board, will not alleviate the problem of a utility potentially over-earning on energy sales. Therefore, in this instance an LRAM does not increase regulatory efficiency, decrease ratepayer impacts, or foster an environment where energy efficiency is as attractive as other potential capital spends.

Full Symmetrical Decoupling, outlined below, avoids these pitfalls by setting a revenue requirement based on volumetric rates and establishing protections for ratepayers that ensures the utility earns only that revenue requirement agreed upon by all interested parties in a base rate case. The process is similar to existing cost-of-service ratemaking with the addition of a responsive mechanism, which controls the utility's revenue stream.[20] Additionally, Full Symmetrical Decoupling can be put in place with robust ratepayer protections that will prevent over earning, even in the time of significant economic downturn such as the current COVID-19 pandemic. Those ratepayer protections should include:

- An earnings test, that will rebate consumers when utilities earn excess revenues.
- A true up mechanism that can adjust in response to changes in the revenue pool ie. any increase or decrease in sales volumes compared with the level assumed in the rate proceeding such as recession; changes in use; or other identifiers decided on in the base rate proceeding.
- A collar or cap be set on rate adjustments so to minimize rate impacts (i.e. 2%).
- Rates and revenues should be separated by sectors based on usage and income in rate proceedings. These sectors can protect classes, other limitations on where earnings come from that can be established in a rate case.
- A rate case mandated on a time frame to adjust the mechanisms in place as needed.[21]
- The state bolster this mechanism with a strong EE policy that requires a robust investment in EE to minimize the # of non-participants, etc.

If such a mechanism were in place during an economic recession, such as what we are experiencing with COVID-19, full symmetrical decoupling may offer the state better ratepayer protections. COVID-19 has significantly reduced electrical usage in the commercial sector and increased residential usage. This means that utilities are experiencing lower industrial and commercial sales, but higher residential. Additionally, it means residential consumers will likely

[20] Regulatory Assistance Project, Revenue Regulation and Decoupling: A Guide to Theory and Application, November 2016, pg. 11, available at: https://www.raponline.org/knowledge-center/decoupling-design-customizing-revenue-regulation-state-priorities/.

[21] New York sets one every three years. Maybe include other examples of states setting these mechanisms.

get higher bills because they are using more electricity. With full symmetrical decoupling in place the following mechanisms could protect consumers:

- Utility revenues are not tied to volume of use, but are designed to hit the revenue requirement established in the most recent base rate case revenues. Meaning that as residential usage increases rates could automatically adjust downward because if usage is higher than expected, utility revenues have increased and a true-up mechanism would shift rates down to ensure that utilities do not over earn and stay within revenue projections.
- With a revenue adjustment mechanism, there could be a collar or cap on the adjustment (i.e. 2%), therefore limiting the increase in revenues utilities would immediately receive and the bill impacts consumers would immediately be liable for.
- Revenue requirements for full symmetrical decoupling can be separated by sector (residential and commercial) and income basis. These sectors can operate on different revenue projections and different rate ranges. Therefore, protections can be put in place so that one sector cannot be subsidized by another.
- Finally, rate cases can be triggered based on revenue discrepancies or based on time frames with decoupling.

c. **LRAM does not address throughput incentive.**

Traditional rate making structures motivate utilities to (1) increase sales and (2) resist reducing sales, through energy efficiency programs or other means. Because LRAM does nothing to shift a utility's essential earning mechanism – increasing sales – the State will have to force utilities to comply with a law that goes against their financial interest. States that have instituted decoupling and even utilities within New Jersey have commented on the seachange the mechanism brings in utility culture.

If costs for energy efficiency and clean energy programs are not put on equal footing with traditional distribution system capital investments, utilities will not shift their focus to clean energy resources. States that deliver savings on par with the savings targets mandated in the Clean Energy Act have shown that to succeed, the state must offer utilities a cost recovery mechanism that incentivizes energy efficiency investment.
Such a mechanism must ensure that energy efficiency investments and programs will result in equal or better earnings potential for the utility than traditional poles and wires investments.

d. Full Symmetrical Decoupling will align clean energy goals with utility financial incentives and provide a mechanism to limit utility earnings in the case that the State pursues beneficial electrification as part of its clean energy goals.

New Jersey's ambitious clean energy goals lead to beneficial electrification for the state. Commenters are concerned that LRAM could end up costing more money for ratepayers as electrification increases.[22]

[22] Annie Gilleo, et al., Valuing Efficiency: A Review of Lost Revenues Adjustment Mechanism, June 2015, American Council for an Energy-Efficient Economy, pg. 21, available at

The 2020 Energy Master Plan as well as recently passed legislation sets the State on a clear path to grow its electricity consumption through electrification of the transportation and building sectors. Ensuring that the additional load from transportation and building electrification is added to the grid strategically is essential to contain overall system costs. The traditional utility model, which is designed to generate utility shareholder investment in power plants, poles, and wires, will not produce a least-cost integration of the electrification of the transportation and building sectors.

6. **Clarify that the CEA requires a single primary cost-effectiveness test that includes environmental attributes and societal costs and that the only existing test that meets the requirements of the CEA is the societal cost test.**

The Commenters recommend that for the first round of energy efficiency filings, the BPU evaluate utility, co-managed, and state plans using the Societal Cost Test ("SCT") as it is the only cost-effectiveness test currently in use in New Jersey that meets the requirements of the CEA, which requires that, "the energy efficiency programs and peak demand reduction programs shall have a benefit-to-cost ratio greater than or equal to 1.0 at the portfolio level, *considering both economic and environmental factors,* and shall be s*ubject to review during the stakeholder process."*[23]

Based on the language of the Act, the BPU concludes that the CEA requires a primary test. Commenters agree with the position of Staff, as well as the four benefits of using a primary test identified in the Straw Proposal. Of the five cost-effectiveness tests described in the straw proposal, only the SCT includes the additional costs and benefits incurred by society, "including environmental costs, improved health outcomes, and economic development impacts."[24]

While the Commenters largely agree with Staff's proposal to develop a Resource Value Test ("RVT") at a future date by employing the National Standard Practice Manual, the Commenters do not believe such a stakeholder process could be sufficiently conducted before the first round of plan filings are evaluated by the Board this year. Therefore, the Commenters feel given that practical timing considerations of this proceeding, as well as the plain language of the CEA, the Board should adopt the SCT as the primary test for the first round of plan filings and evaluate the RVT through an ongoing stakeholder process that leverages the EEAG at a later date.

For next steps, Staff can use this RVF process to promulgate a framework that is useful in contexts other than energy efficiency. A well-designed benefit cost analysis framework can provide a means for establishing the cost-effectiveness of investments of all types. Moreover, a framework that is designed to facilitate robust comparisons among solutions that rely on different fuels can be used to ensure that efficiency, peak reductions, and electrification can be

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https://aceee.org/sites/default/files/publications/researchreports/u1503.pdf. ("LRAM as a permanent policy fixture is fraught with flaws. The regulatory burden is great, and the potential to shortchange customers and overcompensate utilities is ever present.").

[23] N.J.S.A. §48:3-87.9(d)(2) (emphasis added).

[24] Straw Proposal at 50.

fairly compared to fossil fuel-based solutions that might constitute a utility's "business as usual" approach to meeting perceived needs.

7. **The Straw Proposal needs to hold state programs accountable on the same level as it will utility run programs and clarify the roles and expectations in programs administration.**

NJCEP Annual Energy Savings Targets, to the extent programs are run by the state, need to be better defined.

Because the NJCEP is not mandated by the CEA to achieve the energy savings targets in the law, the BPU must ensure that the programs can and will achieve these savings, as utilities may be on the hook if they fail. Unlike the Overall Annual Energy Use Reduction targets, which have a clearly articulated basis in the Potential Study, the division of goals amongst the NJCEP Savings Target and the Utility Program Savings targets in each service territory is not detailed in the record. To ensure the state meets its overall CEA goals, the BPU should clarify the process by which it will determine the projected net annual and net lifetime savings from these programs and what accountability there will be. We recommend that the BPU implement the following suggestions:

a. For the Board's forthcoming decision, we recommend articulating in the record the methodology for the division of savings between the NJCEP Savings Targets and the Utility Program Savings Targets for the 2022-2026 period.

b. For future cycles, we recommend articulating a process for setting NJCEP Savings Targets and sharing initial proposed metrics for stakeholder comment alongside Utility Program Savings Targets.

c. Further, the Board should create a performance review structure that mirrors the utilities in timing and structure, with filings of program budget and performance as well as evaluations of actual performance in comparison to each established QPI. While filings for cost recovery will not be necessary for NJCEP, the results should be published in the same timely fashion as utility programs, should be available for public scrutiny, and should be used to update targets, inform decisions about roles and responsibilities between program administrators, and redesign and update programs.

Commenters thank you for the opportunity to participate in the Straw Proposal process and hope that you will consider our suggestions as we believe that they will put New Jersey on the path to meet and exceed its energy efficiency, clean energy, and environmental justice goals.

Thank you for your time and consideration.

Erin Cosgrove, esq.
Policy Counsel
Energy Efficiency Alliance of New Jersey

Rachel Gold
Director, Utilities Programs
American Council for an Energy Efficient Economy

Katharina Miguel
Clean Energy Advocate
Isles Inc.

Tom Gilbert
Campaign Director, Energy, Climate & Natural Resources
New Jersey Conservation Foundation

Beth Galanti
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Climate Reality Leader

Eric Miller, esq.
NJ Energy Director
The Natural Resources Defense Council

Mary Barber
Director, Regulatory & Legislative Affairs
Environmental Defense Fund

Trina Mallik
Climate Change and Clean Energy Policy Manager
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April 10, 2020

To the Board of Public Utilities,

As a New Jersey small business owner of Performance Marketing in Atlantic County, I am writing to urge the BPU to make smart and meaningful investments in energy efficiency. To be effective, the current Straw Proposal needs to be revised so It can serve as a solid framework for these investments.

At Performance Marketing we recognize that the Straw Proposal for New Jersey's energy efficiency transition plan needs to include a provision to finance these investments in energy efficiency over a longer period of time to ensure a smooth transition. The shorter the transition plan, the more small businesses like mine will be required to help carry the financial load.

I also want to encourage the BPU to include decoupling in the Straw Proposal. This would allow our utilities to fully invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas. Full decoupling would also encourage New Jersey residents conserve energy usage and save money; which is good for our state and our environment.

Sincerely,

Glenn Davila
President
3122 Fire Rd, ste 202
Egg Harbor Township, NJ 08234

Via Electronic Mail

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
EnergyEfficiency@bpu.nj.gov

RE: Response of PosiGen, Inc. to Request for Comments on Energy Efficiency Transition- Full Straw Proposal

PosiGen, Inc. ("PosiGen") submits the following comments in response to the Request for Comments on the Energy Efficiency Transition Straw Proposal issued by the New Jersey Board of Public Utilities' ("BPU") on March 20, 2020. PosiGen appreciates the opportunity to provide these comments and looks forward to continued collaboration with the BPU on the development of the state's inclusive clean energy deliverables, economy and ecosystem. These comments focus on the critical need to utilize this transition opportunity to dramatically reduce and eventually eliminate programmatic silos and instead establish integrated clean energy programs. One specific and compelling example is that the Comfort Partners program should encourage and ensure that all lower income ("LI") ratepayers and environmental justice ("EJ") communities are provided with the maximum opportunity and encouragement possible to access rooftop solar, community solar and pre-weatherization services and incentives. The only way that New Jersey can successfully reach its 100% clean energy goal by 2050 is to leverage all clean energy programs, but especially the uniquely LI/EJ-focused Comfort Partners program, to make an unambiguous, robust and dedicated commitment to ensuring that LI and EJ ratepayers can and do benefit from all clean energy programs.

I. Introduction and Recommendations

As the 2019 New Jersey Energy Master Plan ("EMP") recently recognized, New Jersey is "poised to take advantage of a profound opportunity to expand the clean energy innovation economy, support New Jersey families, and create new long-term jobs" through its efforts to achieve the Governor's 100% clean energy by 2050 goal and the Global Warming Response Act's goal to reduce statewide greenhouse gas emissions by 80% below 2006 levels by 2050.[1] The energy efficiency transition and straw proposal were designed in recognition of those laudable objectives, and in particular:

[1] 2019 New Jersey Energy Master Plan (January 27, 2020), p. 12 ("2019 EMP"). Available at: https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

- Decreased energy burdens for all ratepayers, with a specific focus on lower income customers and environmental justice communities;
- Increased access to energy efficiency opportunities through promoting and expanding energy efficiency for customers and communities with low and moderate income levels;
- Reduced costs for energy saved through reliable and consistent program delivery; and
- Expanded job opportunities and increased economic benefits of energy efficiency for New Jersey.[2]

PosiGen believes that these are outstanding equity goals and applauds Governor Murphy's commitment reflected in Executive Order 23 that established the Office of Environmental Justice in the New Jersey Department of Environmental Protection, which has initiated a series of stakeholder discussions. To enhance these initiatives, PosiGen strongly encourages pursuit of New Jersey's clean energy goals with a specific focus on ensuring that all New Jerseyans, particularly those in the state's LI and EJ communities, can experience the economic and environmental benefits of any expansion of the state's clean energy innovation economy. PosiGen's approach to LI/EJ clean energy financing delivers outstanding results on the above primary objectives, as our customers enjoy significantly reduced energy burdens and increased access to energy efficiency opportunities, while our leveraged financing reduces programmatic costs while creating exceptional job opportunities for LI/EJ citizens in both energy efficiency, as well as solar installation.

Rather than continuing the inefficient and ineffective institutional practice of completely bifurcating energy programs, PosiGen encourages BPU to adopt - and indeed, create new - national best practices through a holistic, whole house/whole customer approach to energy services. Specifically, BPU should ensure that LI/EJ customers are provided with a one stop shop opportunity to have all available programmatic services assessed and delivered at the point of initial service: the Comfort Partners energy audit and efficiency upgrade.[3] To serve that goal, BPU should ensure that the new Comfort Partners program include four cost-effective and critical programmatic elements:

1) Comfort Partners contractors should no longer be prohibited or otherwise discouraged from providing solar educational materials and making direct referrals to solar providers for free solar assessments. Instead, given New Jersey's clear and repeated commitment to 100% equitable clean energy by 2050, Comfort Partners contractors should be strongly encouraged, if not required, to provide education and referrals to customers for all available clean energy options, including rooftop and community solar options.

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[2] Id.

[3] The Weatherization Assistance Program, LIHEAP program and the Universal Service Fund offer three outstanding additional entry points for holistic LI/EJ energy services, and PosiGen strongly encourages BPU to work towards adopting these equitable clean energy recommendations to the maximum extent possible in all future administrative and regulatory efforts around those programs. Note that additional federal WAP funds are available for rooftop solar installations through the U.S. Department of Energy. LIHEAP customers have a clear and urgent need for long-term energy demand reductions far above and beyond one time utility bill assistance. Enabling LIHEAP customers to pay a reduced utility bill after solar and energy efficiency improvements further reduces annual utility revenue write-downs/write offs, which can also benefit all ratepayers over time.

2) All Comfort Partners energy audits should include a clipboard solar audit, to determine at a minimum roof and electrical panel condition, but ideally also a baseline solar production assessment utilizing readily available and free online tools that would add de minimus inputs to efficiency audits, and
3) As soon as practical but no later than 18 months after the transition program begins, all Comfort Partner participants should be automatically referred for a full rooftop and community solar assessment when they apply for the Comfort Partners program.
4) BPU should provide visibility and accountability by establishing an Office of Energy Equity with responsibility, authority and stakeholder engagement protections, and which will ensure holistic clean energy assessment and services for LI/EJ customers going forward.

While all New Jersey ratepayers should be encouraged to access available clean energy programs, LI/EJ customers in particular need consistent education, trustworthy encouragement and enhanced assistance with clean energy access. Given the massive financial impacts of the current pandemic, there has never been a more critical time or urgent need for state government to step up to meet this challenge. Even before the crisis, approximately 44% of low-income communities struggled with energy insecurity, defined as an inability to meet basic household heating, cooling, and energy needs.[4] Additionally, living in under-heated homes puts occupants at a higher risk of respiratory problems, heart disease, arthritis, and rheumatism. A Comfort Partners program that works to ensure that all LI/EJ customers – and now in particular minority, older and health-impaired ones - have access to every program that can reduce their energy costs and make their home healthier, would create a nation-leading best practices model for equitable clean energy and public health care.

II. PosiGen's clean energy activities.

PosiGen, founded and headquartered in New Orleans, Louisiana, is the recognized national leader in low-to-moderate income clean energy financing for homeowners. With rooftop solar and energy efficiency improvements installed at 16,000+ homes in Connecticut, , Louisiana, New Jersey, and New York, our average family is net positive financially more than $500 per year, dramatically reducing energy poverty and increasing community wealth.

As an example of PosiGen's ability to target and deeply impact an LMI community, we completed 2,774 solar and energy efficiency installations in New Orleans East, equating to 9% of the community's 31,000 households. Average yearly income in New Orleans East is just over $40,000, so the average annual savings of $624 that we are providing to our customers has a meaningful impact – that is money available for food, prescriptions, and schoolbooks that was not available before. Including the value of reinvestment of those savings, per a study by the investor-owned utility serving the area, the annual impact of our work in New Orleans East exceeds $6,750,000.

PosiGen has extensive experience in innovative, LMI clean energy development programs. Its partnership with the Connecticut Green Bank has taken the state beyond "solar parity," meaning

[4] Hernández, D., Aratani, Y. & Jiang, Y. (2014). Energy Insecurity among Families with Children. New York: National Center for Children in Poverty, Columbia University Mailman School of Public Health.

that low-income homeowners are now more likely to have rooftop solar than wealthier ones - enabling the Connecticut Green Bank to win Harvard's Innovation in Government award for fostering clean energy equity and delivering unparalleled clean energy services to communities of color. As a result of our success, PosiGen has been included in the award of a U.S. Department of Energy grant to take our model to new markets in the next three years, in partnership with several exceptional non-profits working on inclusive clean energy for low-income families.

In New Jersey in particular, PosiGen has already begun deploying its unique model serving LMI homeowners, and the company has meaningful plans to grow in 2020 and beyond:

- Established a sales and operations headquarters in Ewing, New Jersey in November 2019.
- Sold more than 400 systems in targeted communities to date, with over 1 megawatt already installed.
- Expecting to double sales headcount in New Jersey to roughly 30 employees in 2020, working in partnership with leading non-governmental organizations such as Isles, Inc.
- Exploring multiple new office locations in communities with a combination of a) significant LMI populations, b) older housing stock, and c) high energy burdens, including Newark, Camden, Atlantic City, Asbury Park, East Orange, and more.

III. Challenges facing the State's Lower Income/Environmental Justice customers.

A. Equity

New Jersey recently restated its recognition of the critical importance of the issue of equity amongst LMI households and their higher-income peers with respect to conservation, energy efficiency and renewable energy resources in the EMP, stating:

> [LMI] households spend a proportionately higher percentage of their income on energy bills than higher-income households do. Further, whether due to lack of information, opportunity, or funding, LMI communities are often unable to benefit from energy efficiency initiatives and upgrades that can reduce energy bills and improve air quality."[5]

In addition, the state also recognized that since "energy bills make up a larger percentage of income for the LMI community, it is particularly important that LMI communities utilize and have easy access to programs that can reduce energy use and lower their bills."[6]

Although LMI ratepayers contribute to utility-funded clean energy and energy efficiency programs in the same manner as other ratepayers, they often do not reap as much of the benefit of these programs as ratepayers less constricted by income limitations. LMI customers experience numerous barriers to learning about and implementing conservation, energy efficiency, and

[5] *Id.*, p. 198.
[6] *Id.*

renewable energy measures including lack of access to capital, insufficient credit, language barriers, lack of internet access and general time and resource constraints.[7]

In order to address these barriers, New Jersey administers multiple programs targeting the LMI sector, including the Comfort Partners Program, Weatherization Assistance Program and the Universal Service Fund. However, these programs lack the holistic multi-pronged approach that can more effectively address the needs of LMI and EJ communities in a meaningful way. By focusing solely on elements such as energy efficiency or bill assistance, these programs forego significant opportunities to encourage a suite of conservation, energy efficiency and clean energy measures that can provide a significantly greater benefit to LMI and EJ communities at a lower customer acquisition cost. In addition, these programs generally lack the necessary financial incentives needed to encourage the private sector to enter into the market and provide innovative solutions that serve the unique needs of the LMI market segment. As described in more detail below, PosiGen recommends that New Jersey innovate its LMI programs to better leverage funding so that the maximum number of customers can benefit from a comprehensive set of home and community improvements.

B. Resiliency

Extreme weather events such as the Northeast Blackout (2003), Hurricane Irene (2011) and Superstorm Sandy (2012) "have illustrated the vulnerabilities of [New Jersey's] energy system."[8] However, the state has recognized that "[a]dding decentralized carbon-neutral electricity generation to the system mix adds energy diversity, particularly where those decentralized resources are co-located with critical facilities, such as hospitals and first responders, and are configured to operate even when the larger grid fails."[9]

Rooftop solar has the potential to equip LMI and EJ communities with locally supplied energy resources that provide additional resiliency during periods of extreme weather. This added value is particularly important in LMI and EJ communities, which are disproportionately impacted by the effects of extreme weather events and often do not have the financial resources to recover from them. PosiGen agrees with the EMP's recommendation that "the state should continue to develop opportunities to incentivize maximizing urban solar rooftop installations and to train the local workforce to install and maintain them, bringing new clean energy jobs to the community and enabling low-income residents to benefit from local, clean electricity generation."[10]

The New Jersey Department of Environmental Protection, EDA, and BPU recently proposed to utilize Regional Greenhouse Gas Initiative ("RGGI") auction proceeds towards the creation of "Community Clean Energy Grids" ("CCEG") in LMI communities.[11] This community microgrid

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[7] Interstate Renewable Energy Council (March 2016), "Shared Renewable Energy for Low-to- Moderate-Income Consumers: Policy Guidelines and Model Provisions," p. iv ("IREC LMI Guidelines"). Available at: https://irecusa.org/publications/shared-renewable-energy-for-low-to-moderate-income-consumers-policy-guidelines-and-model-provisions/

[8] 2019 EMP, p. 101.

[9] *Id*.

[10] *Id.*, p. 203.

[11] New Jersey Department of Environmental Protection, New Jersey Board of Public Utilities, New Jersey Economic Development Authority (2019), "Regional Greenhouse Gas Initiative Auction Proceeds

proposal includes the development of community solar and energy storage paired systems capable of operating independently of the grid during emergencies. In addition, the CCEG initiative also proposes to incorporate community-wide energy efficiency upgrades and electric vehicle charging equipment as well as a workforce development component. PosiGen believes that this type of comprehensive approach to decarbonization and community development is a step in the right direction in terms of innovating New Jersey's clean energy program offerings, but strongly urges the state not to limit the CCEG initiative, or any other program, to solely community solar. While we support community solar, rooftop solar generation, as a place-based energy generation solution that is not vulnerable to grid failure like many community solar projects, is far more capable of providing resiliency benefits, particularly when paired with place-based storage, and should be a strongly supported option.

C. Pandemic Recovery

While it is far too soon to calculate the human or financial cost of this disaster, much less the long term cost to the larger economy and public health, three things seem apparent that should urgently incentivize a major re-evaluation of the proposed transition Comfort Partners program, including both its level of funding and its potential to become a critical needs intervention service:

1) Mass sheltering-in-place causes residential energy costs to rise,
2) Sheltering in substandard housing increases health threats, and
3) Minorities, the elderly and those with compromised immune systems are dying in significantly higher numbers.

The first studies are now coming out showing home energy usage is increasing due to stay at home needs. According to the California Public Utilities Commission, residential electricity use there has risen 15 to 20% in the weeks immediately after most residents were order to remain home.[12] An Austin, Texas study showed air conditioning usage up about 40% in last week of March compared to historical averages.[13] With higher demand most days and record breaking heat forecast yet again this summer, lower income families are going to be hurt more than ever with unaffordable energy bills. And sadly, there are going to be far more lower income customers for the foreseeable future, making it more critical that funding and additional demand and utility cost reduction services like rooftop solar be stepped up in priority.

A newly released study from the American Council for an Energy-Efficient Economy highlights how energy efficiency can play a critical part in health outcomes of older adults.[14] According to the report, weatherization and home repairs can:

Scoping Document – Years 2020-2022," p. 16. Available at: https://www.nj.gov/rggi/docs/rggi-scoping-document.pdf.

[12] https://www.bloomberg.com/news/articles/2020-04-02/california-uses-climate-cash-to-cut-power-bills-during-pandemic

[13] https://www.greentechmedia.com/articles/read/tracking-the-duck-curve-under-coronavirus-lockdown-and-other-findings-from-pecan-street

[14] https://www.aceee.org/sites/default/files/pdfs/weatherization_and_home_improvements.pdf

- Reduce exposure to extreme indoor temperatures;
- Major renovations can improve the elderly's health and well-being;
- Improve respiratory symptoms of elderly COPD patients;
- Reduce drug and hospitalization costs as well as mortality among older adults;
- Improve health and make it easier to pay bills, per self-reporting; and
- A home visit and repair program can result in significant medical cost savings.
- Given the rapidly developing evidence that older adults, but in particular African American and Hispanic citizens, are most vulnerable to devastating and often fatal health impacts of the virus, it has now become a critical matter of public health and environmental justice that low income energy efficiency program funding be dramatically increased to mitigate health impacts of inefficient housing stock in minority communities.

IV. Support for Energy Efficiency Alliance of New Jersey Comments

PosiGen has reviewed and is pleased to sign on in support of EEA-NJ's Comments on the Energy Efficiency Straw Proposal.

V. Conclusion

PosiGen appreciates the opportunity to respond to the Request for Comments and looks forward to engaging with the BPU to equitably bolster New Jersey's lower income and environmental justice customer services and outcomes.

Elizabeth Galante – electronic signature

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April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states, "While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

   a) Home Performance with ENERGY STAR.

   b) WARMAdvantage.

   c) COOLAdvantage.

   d) Pay-for-Performance.

   e) Direct Install.

   f) SmartStart.

   We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

   NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

   a) Accessibility to all programs to all contractors in all territories.

   b) Incentive offerings must be indistinguishable across utilities.

   c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

   d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

   e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

   f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

   g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

   h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

b) Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

c) Question 3: Will the BPU insist that each utility utilize the same software platform?

d) Question 4: Will the BPU require program paperwork, financing, incentive application as well as claiming these items at a project completion be seamlessly identical throughout New Jersey's utilities?

e) Question 5: For programs with a financing option, will the BPU require that payment timelines for project financing (if not on-bill) and rate payer incentive payment be the same across all utilities?

f) Question 6: How will the BPU ensure uniformity in applications, payment timelines and procedures?

g) Question 7: How will the BPU ensure that projects in overlapping gas/electric utility territories receive just one project QA inspection and ensure consistency?

h) Question 8: Would the BPU allow fuel conversions and if yes, how would they be managed?

3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

a) Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration……., it is critical that the program designs, including eligibility and evaluation requirements, ***are consistent*** across the state. ***Offering the same*** core programs across the state will streamline program offerings for specific market sectors, ensure effective marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

i) Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

b) Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

   i) Question 1: When the document states "not required" does that mean they can vary or eliminate a current core program currently offered or that the utilities will be allowed to alter its current design?

   ii) Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

   iii) Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

c) Statement 3: "Following the filing of consistent programs, utilities should continue to collaborate in order to implement programs in a **similar** manner and should develop supportive processes, such as consistent procurement processes, procedures, requirements, and forms. This will be especially important in locations where gas and electric service territories overlap."

   i) Question: Is there a plan in place to ensure the collaboration between utilities happens? Is this an opportunity for NJ ACCA to assist?

d) Statement 4: "The Board identifies the programs that must be delivered consistently statewide by all utilities, and the individual utilities each hire implementation contractors to implement the programs."

   i) Question: How will the board ensure equity across all utilities and through implementation?

e) Statement 5: "Staff believes that, while all of these models may work for various programs, the key format for New Jersey is that the utilities collaborate, with **input from BPU and stakeholders**, on program design, requirements, etc. and deliver consistent core programs on a statewide basis."

   i) Question: Will the contracting community also participate, and will the outcome of this collaboration result in seamless consistency of programs across all utilities and will benefit the ratepayers, stakeholders and contractors equally?

f) Statement 6: "Stakeholders emphasized the need for programs to be nimble in responding to market shifts without undergoing a full regulatory proceeding. While **strong oversight of programs** must also be maintained, Staff recommends allowing utilities..... Utilities will be permitted to make minor adjustments to program design with Staff approval."

   i) Question: To ensure consistency, will these nimble adjustments be implemented by all utilities at the same time?

g) Statement 6: "Budget Shifts Within a Sector: Sectors are any grouping of programs that focus on similar target markets, including but not limited to: residential, commercial and industrial, multifamily, low income, and small business. Utilities will be able to **shift budgets up to 10%** of the individual program budget between or among programs in the same sector with Staff notification; this applies only to an individual utility's budget in situations where the shift would not result in a change to the utility's overall budget. For **budget shifts ranging from 10%-20%** between or among programs within a sector **Staff approval will be required for proposed budget shifts exceeding 20%.**"

   i) Question: Could it be possible for one utility to adjust or exhaust a core program's budget that would result in a ratepayer in an overlapping utility territory to be shut out of a core statewide program offering?

h) Statement 7: "Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval**. Any adjustments exceeding **40% of approved levels will require full Board approval.**"

   i) Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues, what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Kerri Raynor

Kerri Raynor
Raynor Services - Owner

NJBPU Straw Proposal for New Jersey's
Energy Efficiency and Peak Demand Reduction Programs
Spring 2020
Rockland Electric Company Comments

Introduction

Rockland Electric Company ("RECO" or the "Company") submits these comments on the New Jersey Board of Public Utilities' ("NJBPU" or "Board") Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs Spring 2020 ("Straw Proposal"). RECO supports the Energy Efficiency ("EE") goals of the New Jersey Clean Energy Act ("CEA").[1] The Company's comments set forth below reflect its previous recommendations on Cost Recovery, Program Administration, EE Targets, Filing Requirements, Evaluation, Measurement and Verification ("EM&V"), as well as the May 9, 2019 "Energy Efficiency Potential in New Jersey" study by Optimal Energy, Inc. ("Optimal"). The Company's recommendations are based on the experience of successful utility EE programs[2] and studies,[3] that demonstrate the importance of lost revenue recovery, the amortization of EE investments with a return of and on those investments, and appropriately designed incentive mechanisms to support successful EE programs.

RECO's recommendations are also based on the Legislature's intent for New Jersey's EE structure, goals and programs, as expressed in the CEA. The Legislature expressly stated in the CEA that the utilities' cost recovery "shall" include, but is not limited to, the recovery of program costs,[4] lost revenues,[5] and a return of and on utility EE investments.[6] The CEA also references Section 13 of the Regional Greenhouse Gas Initiative Act ("RGGI"),[7] which states that the costs of RGGI programs "shall" include a full return on utility investments in their EE

[1] P.L. 2018, Chapter 17. The EE portion of the CEA is codified at *N.J.S.A.* 48:3-87.9.
[2] *See, e.g.*, Maggie Molina and Marty Kushler, *Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future*, American Council for an Energy-Efficient Economy ("ACEEE") (June 2015), Available at https://aceee.org/sites/default/files/policies-matter.pdf; and *Snapshot of Energy Efficiency Performance Incentives for Electric Utilities*, ACEE (December 2018). Available at https://aceee.org/sites/default/files/pims-121118.pdf.
[3] *See, e.g., The 2019 State Energy Efficiency Scorecard*, American Council for an Energy Efficient Economy ("ACEEE") (October 2019) ("ACEE 2019 Scorecard"). (For example, the ACEEE Scorecard includes a list of the state EE programs with the highest reductions in energy usage, which includes Massachusetts, California, Rhode Island, Vermont, and New York.). Available at https://aceee.org/research-report/u1908.
[4] *See N.J.S.A.* 48:3-87.9e (1) ("Each electric public utility and gas public utility shall file annually with the board a petition to recover on a full and current basis through a surcharge all reasonable and prudent costs incurred as a result of energy efficiency programs and peak demand reduction programs required pursuant to this section, *including but not limited to* recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules…") (emphasis added).
[5] See footnote 3 above.
[6] See footnote 3 above.
[7] L.2007, c. 340, § 13, codified at *N.J.S.A.* 48:3-98.1

programs.[8] The Legislature also expressly stated in the CEA that the utilities "shall" receive EE program incentives.[9] In addition, as explained further below, the CEA does not require that penalties be imposed during the "ramp-up" phase of the utility programs, which provides the NJBPU with flexibility in program design.

As it has in the past, the Company specifies the changes that should be made in the Straw Proposal to achieve the energy reductions dictated by the CEA.

Comments

Program Administration - Core Programs

In the Straw Proposal, Staff continues to separate the Core Programs among utility-administered, state-administered, and co-managed Core Programs. In their March 26, 2020, presentation the utilities recommended restructuring the Core Programs to streamline delivery, reduce administrative burden, reduce cost and improve customer experience. RECO supports the utilities' proposal. For example, the utilities recommended enhancements to Core programs, such as consolidating mass-market residential programs as Utility Core Programs, adding the Large Energy User programs to Additional Utility-Led Initiatives, and integrating all residential rebate programs under a single program implemented by the utilities and consistent with the approach of leading programs across the country.

As discussed below, there are several reasons why utility management of the full slate of products-based EE programs offers the most practical and effective approach for customers and the State as a whole. The below discussion is supportive of the utilities' recommendations on CORE programs and utility initiatives that they presented to Staff on March 26, 2020.

Retail Products Program

The Straw Proposal recommends that the Retail Products Programs be divided between utility and state administered programs. However, this approach fails to take advantage of the number of efficiencies and benefits of utility administration of all Retail Products Programs.

[8] *See N.J.S.A.* 48:3-98.1(b) ("Program costs" means all reasonable and prudent costs incurred in developing and implementing energy efficiency, conservation, or Class I renewable energy programs approved by the board pursuant to this section. *These costs shall include a full return on invested capital* and foregone electric and gas distribution fixed cost contributions associated with the implementation of the energy efficiency, conservation, or Class I renewable energy programs until those cost contributions are reflected in base rates following a base rate case if such costs were reasonably and prudently incurred.") (emphasis added)

[9] *See N.J.S.A.* 48:3-87e (2) ("If an electric public utility or gas public utility achieves the performance targets established in the quantitative performance indicators, the public utility shall receive an incentive as determined by the board through an accounting mechanism established pursuant to section 13 of P.L.2007, c. 340 (C.48:3-98.1) for its energy efficiency measures and peak demand reduction measures…").

Utilities Can Develop Engagement Strategies for Retailers and Customers The Straw Proposal recommends that the State continue to administer this program because allegedly it is better positioned to negotiate for statewide deployment of products available to all customers, implying it would be difficult for utilities to establish relationships with big box stores.[10] However, all of the major implementation contractors that would be used by utilities have relationships with both the big box stores and smaller retailers. For example, RECO's parent company, O&R, has achieved success in its retailer engagement efforts through its relationships with multiple vendors offering instant lighting rebates in big box retailers, in addition to local small businesses. Further, the utilities are better positioned to develop engagement strategies with the multiple retail channels using data and state of the art technology unique to the utilities. Many utilities currently implement successful Marketplace Engagement Programs that provide customers with a one-stop shopping experience with instant rebates and education and information on energy efficient products, services and technologies.

Utilities Maintain Local Connections. Beyond the big box retailers, utilities are more connected than the State to smaller neighborhood retailers that serve specific communities. The most vulnerable customers may not have transportation to a big box store; low-income communities tend to shop locally, resulting in local, community-based relationships. In addition, utilities have a history of collaborating with food banks and local food pantries to distribute EE products to the neediest of their customers.

Utilities Provide Consistency, Avoiding Confusion. Utility management of a comprehensive products program will achieve consistent offerings. Indeed, keeping heating, ventilation, and air conditioning ("HVAC") and water heater replacement programs under the same umbrella as the EE products will allow for consistent marketing and avoid customer confusion. Utilities can offer several products through a variety of retailers and an online marketplace, which allows customers to shop through their preferred outlet, while maintaining a consistent messaging and branding. In addition, when all EE products are offered through one administrator, the utility implementation contractor can offer a comprehensive approach for larger projects. Retailers, distributors offering mid-stream incentives, and service providers can work through one administrator, thereby reducing administrative costs.

Utilities Can Provide Better, Faster Customer Service. Customers now expect product delivery similar to the quick service they receive from online shopping and will not be attracted to a mail-in rebate form and a lengthy response time. Utilities and their implementation contractors have better access to the technology and data needed to identify and offer instant rebates to eligible customers' through web and mobile apps, providing better customer service, especially when compared to a slower rebate check process.

Utilities Can Use Data for Targeted Marketing. If the utilities manage all of the product programs, they can use the data to better target marketing messages in home energy reports,

[10] Straw Proposal at p. 68.

including data obtained through Advanced Metering Infrastructure deployment. Furthermore, commercial customer data can be analyzed to help customers make informed decisions when pairing hourly usage data with actual weather data. Energy reduction recommendations can then be targeted to specific end-uses. The use of targeted information coupled with demand response messaging can provide for a streamlined customer experience and effective energy management solutions.

Co-Managed Programs

The Straw Proposal recommends that the Comfort Partners, Energy Efficiency Products Marketplace, and Appliance Recycling programs be co-managed by the State and utilities to "deliver the best programmatic offerings for customers."[11] The Company vigorously disagrees with this recommendation and the basis for it because the co-managed structure will impede the utilities' ability to achieve the CEA's mandated energy reduction goals and negatively impact the customer experience. This concern is based on the experience of RECO's New York utility parent, Orange and Rockland Utilities, Inc. ("O&R"), with New York State Energy and Research Authority's ("NYSERDA") implementation of a separate EE program in O&R's service territory. The simultaneous implementation of separate EE programs by O&R and NYSERDA resulted in customer confusion, delays in project completions, and hampered the utilities ability to achieve energy savings. The inevitable inefficiencies associated with co-managed programs will doubtless hamstring the utilities ability to meet the CEA's mandated energy reduction goals. If utilities are ultimately responsible to achieve the CEA's energy savings targets, and potentially subject to financial penalties for failing to achieve such targets, then they must be afforded the ability to manage these programs. RECO's Direct Install Low Income Program has reached more customers and has proven more cost-effective than the Comfort Partners Program. RECO's program operates at a lower $/MWh, a higher MWh reduction per participant, resulting in a higher benefit cost ratio, and has served the majority of its Universal Service Fund customer population.

Marketplaces are best suited for the utility to administer as they provide a central hub for customers to interact with the utility for their energy needs including enrollment for home energy surveys, energy comparison tools, learning about and enrolling in EE products and services that are customized to support individual utility's service territories and program offerings. RECO has experience through its corporate parent, O&R. O&R has demonstrated the effectiveness of integrating an EE products marketplace into its residential program portfolio. For example, the Marketplace produced 40 percent of the savings realized by O&R's gas portfolio. The O&R Marketplace supports the EE goals of the entire residential portfolio while also serving as a tool to promote demand response offerings in conjunction with EE offerings resulting in a positive customer experience. The ability to apply rebates at the point of sale along with auto-enrollment in demand response produces a seamless customer experience and increases the adoption of EE technologies. Through the success of our marketplace, O&R has achieved advances in the

[11] Straw Proposal at p. 23.

residential sector engaging customers in energy management and increasing their awareness of EE technologies, demonstrated by the continued increase in customer visits and purchases on the marketplace.

Appliance recycling should be integrated into the utilities' residential portfolios of programs as utilities should have the option to select the vendor that will best suit their needs at the best price and have the flexibility to modify the program or vendor based on market conditions and customer needs. Furthermore, O&R's experience with its recycling program has proven to be an effective tool for managing customer expectations and providing an available suite of options.

Marketing and Branding

RECO supports the marketing and branding proposal the utilities presented to Staff on March 26, 2020, and the examples of marketing and branding in the EmPOWER Maryland program. Branding can remain consistent among the State's utilities while programs are administered by each utility taking into account their unique demographics. This process will enable statewide consistency of branding while affording the utilities the flexibility to meet their specific individual needs. Utilities are in a better position to identify market barriers and address and overcome them through program design and targeted communications.

Utility Targets

Overall Utility-Specific Energy Use Reduction Targets

The Straw Proposal's recommendations for utility-specific energy reduction targets does not conform to the clear terms of the CEA. At the outset, the Straw Proposal incorrectly interprets the plain language of the statute by concluding that each year's energy reduction target will be a rolling target based on the most recent three year's energy usage. The Straw Proposal states:

> In any given year in which a target is set, the percentage target reduction is based on the average load of the prior three years.[12]

However, the CEA does not authorize the NJBPU to change targets each year based on the most recent three years of data. The CEA only authorizes the use of the prior three-year average prior to the commencement of the entire NJBPU EE program, and then bases energy reduction on those three years to establish the energy reduction at the end of the fifth year of the EE programs. The CEA states:

> Each electric public utility shall be required to achieve annual reductions in the

[12] Straw Proposal at pp. 32-33.

> use of electricity of two percent *of the average annual usage in the prior three years within five years of implementation of its electric energy efficiency program.*[13] (emphasis added)

The Straw Proposal states that the utilities' programs will begin in spring 2021. Therefore, the two percent energy reduction that the Legislature intended, is based on the years 2018 through 2021.

Further, the Straw Proposal acknowledges that the CEA expressly requires that the utilities' energy reduction goals be "reasonably achievable,"[14] and specifically quotes from the CEA section requiring that targets be "reasonably achievable," as follows:

> As described above, in advance of each energy efficiency and peak demand reduction program filing cycle and following a stakeholder process, the Board will establish utility-specific annual energy reduction targets for each program year, based on the potential for electricity and natural gas usage reductions in each utility territory. This is in keeping with the CEA's requirement at N.J.S.A. 48:3-87.9(c) that "…the board establish reasonably achievable targets for energy usage reductions and peak demand reductions…" The overall annual energy reduction targets for each utility will be set at reasonable levels that reflect achievable net annual energy usage reductions in each utility territory.[15]

Yet, when the Straw Proposal goes in depth to justify the energy targets in Appendix C, the Straw Proposal provides no explanation why these energy targets are "reasonably achievable." Pages 30 through 39 set out general "principles" on which the targets are based, such as targets "should meet or exceed CEA minimum requirements, and targets should "encourage the capture of comprehensive savings associated with long-lived measures." There is no analysis of targets in other states or a showing where utilities have achieved targets similar to those set out in Appendix C. In short, there is no explanation why the targets are "reasonably achievable." For example, according to the 2019 ACEEE State Scorecard, New Jersey's EE savings are only 0.35% of retail sales.[16] The Office of Clean Energy ("OCE"), the Statewide program administrator, has been implementing programs for several years and together with the utility programs, the State achieved 0.35% of NJ electric sales, far lower than the 0.75% that electric utilities will be expected to achieve in year one.

In Appendix C, where the targets are set out, the words "reasonably achievable," do not even appear. Instead, the Straw Proposal, once again, relies on unidentified "stakeholders," and

[13] CEA at section "a."
[14] Straw Proposal at p. 32.
[15] Id.
[16] *The 2019 State Energy Efficiency Scorecard,* American Council for an Energy Efficient Economy ("ACEEE") (October 2019) ("ACEE 2019 Scorecard"). Available at https://www.aceee.org/research-report/u1908.

states the targets are based on the following:

> stakeholder feedback, the results of the *Energy Efficiency Potential in New Jersey* study, and ongoing engagement with stakeholders and the Energy Efficiency Advisory Group, which has [sic] occurred since early 2019."[17]

Plainly, the stakeholders relied upon were not the gas and electric utilities because at every opportunity (including the utilities' comments) they explained to Staff that these targets were not achievable and had not been achieved in any other state programs during ramp-up periods. The utilities are not aware of any joint statement or position taken by the Energy Efficiency Advisory Group ("EEAG") supporting Appendix C. Also, the EEAG only included one utility representative, Thomas Churchelow from the utilities' trade group, the New Jersey Utilities Association ("NJUA"). The remaining members all lacked any experience with either managing a utility or an EE program.

As for the *Energy Efficiency Potential in New Jersey* study by Optimal Energy[18] ("Optimal Study") in May 2018, comments on that study are posted on the NJBPU website. The Optimal Study was extensively criticized by the NJ utilities and other stakeholders for its conclusions, which were based on limited data on the utilities or their particular service territories. The Board never approved the conclusion of the Optimal Study. In its Optimal Order,[19] the Board in fact acknowledged "that there are many details not fully contemplated in the law or addressed in the EE study which require further analysis and recommendations."[20]

Flexibility

The Straw Proposal would allow utilities modest flexibility to shift budgets within and between sectors, as well as adjust incentive levels. If utilities are to achieve the ambitious goals set forth in the CEA, however, they must be afforded significantly more flexibility in shifting their budgets and incentive levels. Particularly in light of their exposure to penalties for under-performance, utilities must be afforded the flexibility to modify programs to respond to changing market conditions. The experience of utilities in New York is particularly telling as to this issue. In the early years of New York's EE program implementation, budget shifts of more than ten percent required DPS Staff's approval, as well as corresponding modifications to incentive levels. Over time, NYDPS Staff recognized that this requirement produced unnecessary lags that ultimately constrained utility performance. DPS Staff found that removing these requirements will reduce unnecessary administrative steps without affecting sector budget or targets or weakening oversight of the programs. Now New York utilities have full flexibility to shift funds

[17] Straw Proposal at p. 77.
[18] *Energy Efficiency Potential in New Jersey*, Optimal Energy, Inc. (May 9, 2018) ("Optimal Study").
[19] Order, *IMO Implementation of P.L..2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs*, Docket No. QO19010040, and *Energy Usage Reduction Targets and Quantitative Performance Indicators*, Docket No. QO19050536 (May 28, 2019) ("Optimal Order").
[20] Optimal Order at p. 4.

within their electric portfolios and within their gas portfolios and to modify incentives levels as appropriate to spur participation and respond to changing market conditions. As a result, New York utilities have exceeded their goals and continue to increase their performance year after year. In this new structure, where the primary objective is to facilitate the achievement of the CEA's mandated energy savings goals, it is critical that utilities be afforded sufficient flexibility to adjust incentives and redirect budgets as necessary. This will support the achievement of EE savings targets and avoid disruptions to successful programs (*e.g.*, programs with strong demand might have to shut down mid-cycle if sufficient funds could not be transferred). In light of these factors and the success of New York utilities, RECO proposes that utilities be authorized to shift at least 50% of the budget program funding within the electric portfolio and to modify rebates as necessary upon notification to BPU Staff.

Cost Recovery and Performance Incentives

Cost Recovery Proposal

Staff's cost recovery recommendations include a lost revenue adjustment mechanism ("LRAM"), amortization of program investments over seven years, a lower ROE for EE investments, and a performance incentive and penalty structure tied to the achievement of targets. For the reasons discussed below, these proposals do not incorporate proven regulatory measures for successful EE programs and fail to adopt the recommendations made by numerous stakeholders through the process of developing the Straw Proposal.

Lost Revenue Recovery

The approach to lost revenue recovery supported by the utilities and other stakeholders is a revenue decoupling mechanism ("RDM"), which avoids many of the shortcomings of the Straw Proposal's LRAM methodology. An RDM has proven to be a key measure in a successful EE regulatory construct, and as such a number of stakeholders in this proceeding have recommended the Board adopt an RDM as part of the EE regulatory framework. In addition, numerous surveys of state EE programs, including those by ACEEE, have identified that states with full RDMs combined with meaningful incentives and amortization of costs have successful EE programs.

Staff recognizes that an LRAM "will not fully sever the throughput incentive" and that it will be a "challenge… to accurately quantify the demonstration of savings associated with implemented energy efficiency."[21] As the Company has noted in prior comments, an LRAM requires a complicated verification process to review energy savings achieved.[22] In particular, the NJBPU, utilities, and other stakeholders would be tasked with linking energy reductions to specific measures and be limited only to those measures. The impact of spillover, which is

[21] *Id.*
[22] *See*, Lost Margin Recovery, American Council for an Energy Efficient Economy, accessed at https://www.aceee.org/toolkit/2020/02/lost-margin-recovery

defined as any energy savings due to the program other than reductions due to measures or actions taken by participants, would not be included and thereby understate the lost revenue actually realized by the utility. The New York Public Service Commission ("NYPSC") took a different approach in developing an incentive mechanism known as Earnings Adjustment Mechanism ("EAM") when it determined that "EAMs may be oriented toward outcomes that utilities can influence and need not be confined to activities over which utilities have direct control."[23] The NYPSC found that "an outcome orientation will tend to be the most effective approach to address the mismatch between traditional revenue methods and modern electric system needs."[24] Moreover, the Straw Proposal fails to discuss how utilities are to track lost revenues resulting from the OCE's programs. The development of such a verification process that attempts to measure accurately the energy reductions linked to both the utility and OCE's EE measures will be costly, time consuming, administratively burdensome, and likely involve contentious administrative proceedings with extensive discovery. Further, the uncertainty produced by the aforementioned mechanics of the LRAM may decrease the scope and scale of EE measures pursued. These concerns are overlooked in the Straw Proposal.

Staff also incorrectly concludes that the CEA requires an LRAM, while failing to cite to any authority for that conclusion. While Staff also concludes that the Board "retains its ability to consider and approve other decoupling mechanisms," and expects that utilities will include modified lost revenue mechanisms "up to and including full decoupling" in future rate cases,[25] this delays the implementation of a proven and effective decoupling mechanism at the critical early stages of EE program implementation.

Finally, as Staff recognizes, an LRAM also still ties utility profit to sales. Therefore, the adoption of such a mechanism may inadvertently frustrate other efforts to reduce demand pursued by the utility, such as behind the meter renewables. This is due to the fact that utilities will still lose the revenue necessary to operate due to other market efforts. This may consequently discourage the advancement of other state goals that reduce energy usage.

[23] Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision*, Order Adopting A Ratemaking and Utility Revenue Model Policy Framework (issued and effective May 19, 2016) p. 55 ("Track Two Order")
[24] Track Two Order at p. 62.
[25] Straw Proposal at pp. 40-41.

Amortization Period

As the Company noted in prior comments, the amortization period of EE program investments should be based on the average life of the portfolio of EE measures undertaken by a utility. This more closely aligns amortization of EE investments over the life of a portfolio of EE measures, allowing customers to contribute to program costs according to the benefits they receive. This approach also eliminates the shifting of these costs between current customers and future customers (thereby facilitating inter-generational equity), reduces the customer bill impact in any given year, and aligns the costs incurred with the benefits received in the same year.

The Company recommends that EE program investments be amortized over a minimum ten-year period, so as to be more consistent with the average lives of the portfolio of EE measures that the Company expects to implement and provide the additional benefit of reducing customer bill impacts. For example, O&R's 2019 electric portfolio had an average measure life in excess of 13 years, and its gas portfolio had an average measure life in excess of 12 years. Similarly, the NJBPU's Clean Energy Protocols list the useful lives of 40 or more EE measures, with only a few of the measures having useful lives less than ten years, and the majority of the measures having useful lives of ten to 20 years.[26] Further, the NJ Clean Energy Protocols frequently cite to the protocols of the NYPSC. The protocols of the NYPSC are similar to the NJ Clean Energy Protocols: of the 80 or more listed measures in the NYPSC protocols, less than a quarter have useful lives less than ten years, and the remaining measures have useful lives of ten to 20 or more years.[27] The Straw Proposal's recommended amortization period of seven years does not account for the benefits of a more closely aligned amortization period nor recognizes that a majority of measures' average lives exceeds the seven years proposed.

Return on Equity

As noted in the Company's prior comments, the carrying charge rate for EE investments should be a utility's pre-tax overall weighted cost of capital ("WACC") as ordered by the NJBPU in the utility's last base rate case.[28] Importantly, using a utility's WACC places utility

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[26] *See, New Jersey Board of Public Utilities Clean Energy Program Protocols to Measure Resource Savings,* pages 180-182, Revisions to FY2016 Protocols, Release Date: June 22, 2018 Board Approval Date: June 22, 2018 ("NJ Clean Energy Protocols"). Available at https://njcleanenergy.com/files/file/Board%20Orders/FY19/1g2%20-%20NJCEP%20Protocols%20to%20Measure%20Resource%20Savings%20FY19%20%20v3a.pdf

[27] *See, New York Standard Approach for Estimating Energy Savings from Energy Efficiency Programs –Residential, Multi-Family, and Commercial/Industrial Measures Version 5.2. Issue Date – April 10, 2018, Effective Date – January 1, 2018.* Available at http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/72c23decff52920a85257f1100671bdd/$FILE/TRM%20Version%205.2%20-%20April%202018.pdf

[28] For RECO, the after-tax WACC would be 7.11 percent as ordered by the NJBPU in RECO's recently concluded electric base rate case. *I/M/O the Verified Petition of Rockland Electric Company for Approval of Changes in Its Electric Rates, Its Tariff for Electric Service and Its Depreciation Rates; and for Other Relief,* BPU Docket No. ER19050552, Decision and Order Adopting Initial Decision and Stipulation of Settlement (dated January 22, 2020). RECO's pre-tax WACC is 8.91 percent.

EE and utility non-EE investments on an equal footing, and therefore eliminates the disincentive to invest in EE. The Company would note that the CEA refers to Section 13 of the RGGI Act,[29] and the carrying charge on RGGI Act investments is based on the utility's WACC established in its last base rate case. The NJBPU should reject assigning a lower ROE to a utility's EE investments as it circumvents the rate case proceeding, is based on the incorrect assertion that EE investments are less risky, and puts EE investments on unequal footing with other utility investments.

The utility base rate case ROE looks at the entirety of the utility's risk, among other factors; relies on the technical expertise of expert witnesses; and benchmarks against comparable utilities, some of which may be receiving full recovery on their amortized EE and other investments. Further, benchmarking against the ROEs of comparable companies to develop an appropriate ROE is also performed in a rate case. ROEs from benchmarked utilities in those states will inherently have the impact of such EE investment risk in the ROE comparisons. Adjustments to ROE made outside of a utility's rate case circumvents the rate case process that involves expert witnesses, on behalf of the utility, Division of Rate Counsel and other stakeholders, who rely on their technical expertise to develop and establish a utility's ROE. Determining risk, and an associated specific ROE, for a particular piece of the utility's business is not appropriate. Rather they should be considered and determined holistically within the confines of the rate case process.

Allowing a different ROE for a particular project, program or investment, such as those undertaken to meet the State's clean energy goals, would establish a particularly misguided precedent. Application of different ROEs that are tied to specific programs or investments is an inappropriate practice whether within a rate case or outside of a rate case. The Company's investment strategy and its access to capital is based on the total risk component of the Company's portfolio of projects and programs. The use of varying ROEs risks compromises the Company's access to capital and ability to secure lower financing to the benefit of its customers. States that allow a utility to amortize EE investments do not require a lower ROE on those investments.[30]

Staff's proposal to decrease the ROE on EE investments based on the assertion that EE investments present less risk than that associated with the utility's traditional infrastructure investments is not consistent with a state that sets goals to achieve increased energy usage reductions. It is not true that EE investment by a utility is inherently less risky. The CEA requires the utilities to implement EE programs on an unprecedented scope and scale. The uphill climb to achieve this scope and scale is compounded by the proposed co-managed program approach. Moreover, under the CEA framework, utilities for the first time are subject to

[29] L.2007, c. 340, § 13 codified at N.J.S.A. 48:3-98.1.
[30] RECO's New York affiliate, Consolidated Edison Company of New York, Inc., recovers its EE investments at its full ROE.

penalties.[31] The Straw Proposal also suggests that rate caps may be imposed, which involve a risk that the utility's EE investments will not be recovered in a timely manner. The potential for future Commission action, in general, also has the ability to alter recovery by a utility resulting in increased risk. In such event, utilities will also face the risk of inadequate carrying charges on any unrecovered balances.

Further, EE programs experience delays and events beyond the utility's control, such as storms, economic downturns, and the COVID-19 pandemic. These factors can have a significant impact on the utilities' ability to achieve these ambitious goals. Large commercial and industrial EE projects can take multiple years to complete and are sensitive to the budgetary constraints of large customers. A vendor can fail to perform, potentially preventing the utility from achieving its NJBPU-established quantitative performance indicators ("QPIs"). In light of these factors, the Straw Proposal's bold assertion that EE investments are less risky and therefore should be subject to a reduced ROE is simply not compelling. The Board should reject Staff's proposal and allow utilities to recover their full ROEs on their EE investments.

An ROE adjustment, like the proposed LRAM, also may disincentivize EE measures in furtherance of New Jersey's clean energy goals. Industry and other stakeholder support for maintaining the level of ROE voiced during the April 1, 2020 webinar came from NRDC, NJ Energy Coalition, Energy Efficiency Alliance of New Jersey, Gabel Associates, NJ Alliance for Action, EEI, and Sealed.

Performance Incentive and Penalty Treatment

RECO continues to recommend strongly that for the first three years of the utility EE programs there should be no performance penalties or incentives. The first three years should be used to ensure a smooth transition of programs, establish baseline performance, and perform New Jersey-specific research from which future utility territory-specific targets can be established. During this period, utilities should be focused on three key objectives: improving the delivery of programs during the initial years to capture more energy savings, ensuring a positive customer experience and supporting trade allies to help grow the economy.

As in prior comments, the Company objects to the scalability framework recommended by Staff in the Straw Proposal. In the Straw Proposal, Staff continues to recommend that a performance penalty be assessed if a utility achieves between 50% and 90% of its QPIs.[32] There

[31] In establishing an incentive mechanism known as EAMs, the NYPSC found that "Negative adjustments for EAMs should not be routine. Existing negative adjustments for reliability and customer service are intended to deter problems, and the less they are actually imposed, the better for customers. Most EAMs, in contrast, are established for activities with positive value; therefore, the more they are awarded, the better for customers. Most EAMs should be constructed so that achieving the maximum award is a desirable result for customers as well as the utility. Negative adjustments should typically be reserved for exceptional instances of inadequate effort or performance." Track Two Order at p. 66.

[32] Straw Proposal at pp. 40-41.

will be a neutral area, or buffer, ranging from 90% to 110% of the QPI achievement, within which there will be no incentive awarded or penalty assessed.[33] There will be a performance incentive awarded if a utility achieves between 110% and 150% of its QPIs.[34] If the utility fails to reach 50% of the target, it will be deemed non-compliant and will be assessed a penalty of 0.75% of its base rate distribution revenue in the previous year. The performance incentive and penalty structure will be reviewed three years after the approval of utility EE transition programs, along with the utility's QPIs.

Requiring a utility to achieve 110 percent of its QPIs before it can earn an incentive does not comport with how a utility structures its EE program budget nor recognize the significant effort required to achieve the targets sought in the CEA. As a general matter, a utility's EE transition program budget is structured so as to achieve 100 percent of its QPIs. Given the aggressive energy savings goals of the CEA, and the need for the utilities to ramp-up their EE efforts, it will be very challenging for a utility to achieve 100 percent of its QPIs. If a utility is to achieve results greater than 100 percent of its QPIs, it will need to increase its EE transition program spending (*i.e.*, budget). Budgets and energy targets are established to minimize spending and maximize energy savings. To achieve a realistic balance of these two goals, an average spending target must be established for the entire portfolio which incorporates a combination of higher cost measures which often produce higher/longer term savings along with lower cost measures that produce less/short term energy savings. At the point utility energy savings targets exceed the average $/MWh portfolio spending levels, targets and budgets become misaligned. Utilities are forced to implement least cost portfolio measures, with a shorter life, to achieve savings targets above 100%. Given these circumstances, a utility should be able to begin earning incentives once it achieves 80 percent of its QPIs. Incentives would be scaled upward from this 80 percent achievement threshold.

The Company also strongly recommends calculating incentives and penalties on a monetary basis. Staff acknowledges that other states, such as Pennsylvania, employ this approach, but rejects this approach on the grounds that it is more appropriate, with the great size disparity among New Jersey utilities, to pursue a mechanism able to incent larger utilities while not capriciously punishing smaller ones.[35] Staff argues that this penalty will scale to utility size in a way that a set monetary penalty could not. However, Staff does not recognize in the Straw Proposal that monetary penalties can also readily be adjusted among the State's utilities to reflect their relative size. No stakeholder has suggested that the monetary value of incentives and penalties be uniform across utilities (*e.g.*, that PSE&G and RECO be able to achieve the same absolute incentive amounts). Using a specific dollar amounts allows for a simple and transparent determination of credits to customers. It also establishes more effective incentives than adjustments to earnings. From an administrative perspective it has the benefit of avoiding the complications inherent in the Straw Proposal's sliding scale ROE approach.

[33] *Id.*
[34] *Id.*
[35] *Id.*

EM&V and Filing Requirements

Staff recommends that an Evaluation, Measurement, and Verification Working Group ("EM&V WG") be established in the spring of 2020.[36] The EM&V WG will bring together several entities to assist in the development of program evaluation plans and methodologies.[37] The EM&V WG will be involved in providing guidance and input, but not direct oversight, of the planning, and continuous support and monitoring of evaluation activities and the recommendation of the development of consistent EM&V policies and procedures associated with New Jersey's EE and peak demand reduction programs. According to Staff, the following parties, at a minimum, will have a role in the ongoing EM&V WG: NJBPU Staff, Utilities, Statewide Evaluation Manager, Independent Evaluation Contractors, and Division of Rate Counsel.[38] Individual evaluators contracted by New Jersey's public utilities and by the State will collaborate with and be overseen by a Statewide Evaluation Manager and Staff on specific EM&V tasks, with clearly delineated roles and responsibilities.[39]

The Company agrees that an EM&V WG should be established to assist in the development of program evaluation plans and methodologies, provided that representatives of all of the utilities are members of the EM&V WG. The Company strongly disagreed with the limited utility membership in the EEAG. Utilities have the expertise and experience to provide needed input to the work of the EM&V WG.

Net v. Gross Savings

The Company disagrees with the Straw Proposal's recommendation on net savings. Staff recommends that energy savings should be reported in both a gross and net savings format, with net savings used for all aspects of program review, including cost-effectiveness testing and compliance.[40] In the short term, while more New Jersey-specific net-to-gross factors are being developed, New Jersey will apply a net-to-gross value of 0.84 to all programs, except for low-income, for which 1.0 should be used.[41] Staff proposes that the Board, working with the EM&V WG, will coordinate the release of a net vs. gross study (possibly as part of a process evaluation) to determine the effects of free ridership, spillover, and other induced effects of EE and peak demand reduction programs and account for these effects accordingly in reporting of energy savings (particularly for those programs that have more custom measures).[42]

As the Company has explained in prior comments, the Company supports program evaluation based solely on gross savings. Calculating net savings is time consuming and

[36] Straw Proposal at pp. 46-47.
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] Straw Proposal at pp. 52-52.
[41] *Id.*
[42] *Id.*

introduces an unnecessary level of complication and expense (*e.g.*, the methodology for calculating free ridership and spillover effects) and corresponding potential for disagreement. In addition, gross benefits represent the true impact of programs in the State. Gross savings should be used as they reflect the true impact on the electric grid and should be used to inform planning decisions for infrastructure investment. In contrast, net savings serve only to dilute the impact of energy efficiency and incentivize infrastructure investment that may not be needed. States like New York with mature EE programs have increasingly adopted gross savings because it better reflects the impact of the benefits realized.

Non-Energy Benefits ("NEBs")

With regard to non-energy benefits ("NEBs"), Staff recognizes non-energy benefits ("NEBs") can be positive or negative, although most are considered positive. Staff concludes that environmental and economic non-energy benefits and costs should be identified and, where possible, quantified and included in BCA tests, and if these NEBs are not included, BCA tests will under-estimate the value of EE and peak demand reduction programs.[43]

The efforts necessary to quantify these non-energy benefits are considerable and argue against the quantification of such benefits. The Company agrees that there are indirect or non-energy related costs or benefits that should be considered. For example, low-income EE programs generally have a BCA ratio less than one. While additional benefits are realized by participants, such as enhanced health and safety, the value of a lower energy bill, and reduced subsidies needed to support credit programs, these benefits are not easily quantified. As a result, low income programs are implemented despite a BCA less than one while realizing that these benefits, if quantified, would produce a BCA ratio above one.

Filing Requirements

Staff proposes that utilities submit EE and peak demand program filings every three years by November 1 for Board approval by May 1 of the following year. Utility program administrators may propose programs that last for up to three years, with the possibility of continuation through future filings. Certain programs, such as pilots, may have shorter durations. Utility program administrators who wish to make mid-term adjustments to the three-year filings – that is, in between program filings – may do so in accordance with both the framework laid out in the program.[44] Staff proposes that the current minimum filing requirements ("MFRs") for petitions align with the RGGI MFRs comprised of six sections and include information on the following topics: general filing requirements, program description, additional filing information, cost recovery mechanism, cost/benefit analysis, and evaluation, measurement, and verification. The proposed MFRs are set out in Appendix F of the Straw Proposal.[45]

The Company disagrees with the use of the current RGGI MFRs because these exceed what is necessary to determine the effectiveness of EE programs. For example, determining a program's impact on job creation is far too speculative to be meaningful in the determination of

[43] Straw Proposal at p. 52.
[44] Straw Proposal at pp. 54-57.
[45] *Id.*

program effectiveness. These are not core components needed to determine the effectiveness of an EE program; moreover, they can be subjective and costly to determine. It is difficult to determine employment levels as many programs are implemented by third parties. The accuracy of data reported may be subjective or inaccurate and the resources and systems needed to update and maintain this data are costly while providing no benefit toward the effectiveness of the EE program. The Company would note that in New York, the annual filing requirements include the following components: program design, program delivery method, target market and customer eligibility, anticipated participation levels, quality assurance plans, budget and plan summaries, EM&V plans, and BCA summaries.

With regard to the filing requirement, the CEA envisions that utilities will file petitions prior to implementing their EE and DER programs. Such petitions will project reductions in energy usage and peak demand, as well as perform benefit-cost tests on forecasted program achievement. These projections will be based primarily on best practices and industry knowledge with energy and demand savings forecasts based on TRMs and industry guided principals, participation assumptions and forecast expenditures. Subsequent annual filings will compare actual results to projections and reflect any recommendations provided by process and impact evaluations if they were performed during that year. The first impact evaluations should be performed after enough heating and/or cooling cycle energy usage data is captured to determine the impact of the measures installed that are affected by weather. Once EM&V studies are completed, their evaluation findings should inform the next program design cycle.

Metrics

In the Straw Proposal, Staff continues to propose a multifactor metric structure, in which more than one metric will be used to review and evaluate overall progress towards energy use and peak demand reduction targets and other important program goals, as well as utility and NJCEP performance. Staff proposes seven metrics to be phased in over the first five years of New Jersey's next phase of EE and peak demand reduction programs.[46] In years 1 through 3, Staff proposes that utilities and NJCEP will be required to track and report on all metrics. However, incentives and penalties will be based solely on performance in the annual energy savings and lifetime energy savings metrics.[47] In years 4 and 5, Staff proposes that utilities and NJCEP will be required to track and report performance on all seven metrics. Incentives and penalties will be based on performance in all seven metrics. The weighting structure will incorporate the seven metrics and will be consistent for both electric and gas targets in each program year. NJCEP will report savings associated with all metrics but will not receive incentives or penalties based on performance. Subsequently, targets, metrics, and QPIs will be established and reviewed during the triennial review process.[48]

As noted above, RECO strongly recommends to Staff that for the first three years of the utility EE programs there should be no performance penalties or incentives. The first three years should be used to ensure a smooth transition of programs, establish baseline performance, and perform New Jersey-specific research from which future utility territory-specific targets can be

[46] Straw Proposal at pp. 33-34.
[47] Straw Proposal at p. 78.
[48] *Id.*

established. During this period, utilities should be focused on three key objectives: improving the delivery of programs during the initial years to capture more energy savings, facilitate a positive customer experience and support trade allies to help grow the economy. RECO agrees, however, that metrics will continue to be tracked.

Further, as the Company has explained in prior comments the number of QPIs is excessive and should be reduced. Additional QPIs add unnecessarily to the costs of the EE programs. In New York, O&R's EE programs have two QPIs, an annual energy savings target, and an effective useful life threshold. RECO advocates that the Board adopt a similar streamlined approach for New Jersey.

Conclusion

For the above reasons, RECO requests that the Board's Order addressing Energy Efficiency and Peak Demand Reduction Programs reflect the Company's positions as set forth above.

April 13, 2020

Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350

Re: Energy Efficiency Transition – Full Straw Proposal

Dear Secretary Camacho-Welch,

On behalf of Direct Energy, LP and Centrica Business Solutions (together "the Company"), I am writing to provide comments in the above referenced matter. Direct Energy is one of the largest retail power and gas suppliers and energy services companies in North America. We operate in all 50 states plus the District of Columbia and 4 Canadian provinces and are proud to have more than 4 million customer relationships, more than any other competitive retail supplier in North America. The Company serves more than 116,000 residential and commercial customers throughout New Jersey. CBS helps customers harness the promise of distributed energy across three key strategy areas - energy insight, energy optimization, and energy solutions, including combined heat and power ("CHP"), solar, battery storage and standby generators. Our parent company is UK-based Centrica, plc (formerly known as British Gas), a Global Fortune 500 company.

The Company's position has not changed when it comes to fulfilling the state's seminal law on energy choice, the Electric Discount and Energy Competition Act of 1999 ("EDECA"). EDECA's very preamble includes the notion that wherever possible, the competitive market is preferable to provide customer energy solutions than the monopoly utility model. The Company acknowledges the 2018 Clean Energy Act's ("CEA") directive that the state's electric and gas utilities cut usage by 2.0% and .75% respectively; however, that does not and should not mean that the competitive markets are thrown to the wolves and left out to dry. Clearly, EDECA's intent of choosing competition over monopoly is still in force and should be closely guarded by the New Jersey Board of Public Utilities ("NJBPU").

To make this point even more clear, NJBPU staff heard from several business interests at its most recent webinar on the Energy Efficiency Transition Full Straw Proposal held on April 1, 2020. These business interests expressed concern over, among other things, utility driven costs that keep increasing, the fate of business non-utility investments in solar, battery storage, CHP, etc., and the role utilities should play in the competitive markets. These are all excellent points. But to make these comments even more salient one only must look at the most recent switching statistics for both the power and gas markets.

The competitive market is an important player in New Jersey's energy sector. The most recent switching statistics as posted on the New Jersey Board of Public Utilities ("NJBPU") website for February 2020 indicate that for the power sector, over 600,000 residential and 144,000 commercial and industrial ("C&I") accounts are with Third Party Suppliers ("TPS") totaling ~39% of the total electric load. But if you dive into the C&I sector a bit more, you see the scope of how business interests have come to rely on the competitive markets: ***over 51% of the load for customers under 500 kw, 77.8% of the load for customers between 500 and 750 kw, 78.9% of the load for customers between 750 and 1000 kw, and 83.9% of the load for customers over 1000 kw have switched to TPS***. For the gas sector, over 53.5% of the C&I load have switched to TPS. These numbers clearly demonstrate the value competitive markets play for many New Jersey customers and should be kept in mind when determining who is in a better position to market Energy Efficiency and other energy reducing/management products and/or services.

With respect to the Energy Efficiency Transition Full Straw Proposal ("Straw Proposal"), the Company has the following general and specific comments:

1. Wherever possible, the Straw Proposal should mimic the policy declarations in the most recent 2020 Energy Master Plan that supports competitive bidding processes to ensure the broadest participation of competitive market forces and providing the lowest and best value to customers who will bear the cost of any utility run programs.
2. The utilities should not be permitted to claim incentive credit for the load reductions TPS, other competitive market players, and our customers have accomplished through implementation of customer driven investments in energy efficiency and distributed energy solutions. Thus, when the NJBPU sets each utility's specific annual energy reduction targets, it should remove from any anticipated net savings the hard work of other companies who made their own unique and Return on Investment driven decisions and the reductions such investments accomplished. That is the most reliable way to judge the efficacy and success of utility managed programs.

   Moreover, there is no reason to require the utilities to register MWs with PJM as this is done already by a number of competitive market participants, including the Company, who participate in PJM market opportunities. Competitive market participants are currently allowed under PJM rules to dual enroll customers in both utility run and PJM run demand reduction programs. The Straw Proposal would effectively block that which negates further customer options when it comes to choosing whether to invest in energy efficiency projects or distributed energy solutions.
3. Several of the proposed utility managed C&I Programs are duplicative of efforts already being conducted by the competitive markets, examples include but are not limited to the Large Energy Users Program and Retrofit – SmartStart Program. Competitive market participants, like the Company, are already meeting with and discussing with our customers ways in which a customer can reduce and manage their energy usage

better. Our efforts are funded solely through shareholder dollars and would not require additional costs being placed on ratepayers through hiring additional utility personnel. The NJBPU should reconsider any program where such duplication exists and particularly in a sector where the vast majority of the load is already being served by a TPS. Those programs should not be utility managed and should remain in the current Clean Energy Program under state administration.

4. The Energy Efficiency Products Marketplace ("EEPM") must be technology and brand neutral. It is critical for customers to be able to choose technologies that meet and fit their unique needs, not a predetermined suite of utility chosen products. If the state wishes to create minimal qualification criteria for any product or service that wishes to be listed on the EEPM (such as Energy Star rating, certified % reduction in usage, etc.) that would be fine but if a product or service meets those minimum criteria they should be eligible for inclusion in the EEPM.

Direct Energy appreciates the opportunity to provide these comments the Straw Proposal. Should you have any questions, please do not hesitate to contact me at Robert.Gibbs@directenergy.com or 732-259-0233.

Very truly yours,

Robert L. Gibbs

Robert L. Gibbs
Director – Corporate & Regulatory Affairs

RLG/*
Via email EnergyEfficiency@bpu.nj.gov

From: Robert Fell
To: energyefficiency
Subject: [EXTERNAL] Clean Energy
Date: Monday, April 13, 2020 3:34:59 PM

April 10, 2020
New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350

Attn: Aida Camacho-Welch, BPU Secretary

As a business owner, and environmental enthusiast, I am proud to be living in a state that's at the forefront of combatting global climate change. The Murphy Administration and Board of Public Utilities should be commended for putting forth a progressive plan to protect our environment that's expected to fuel economic growth and create well-paying jobs. I'm just hopeful that my employees and their families have the same access to the economic benefits energy efficiency is expected to yield, as we know from the past that some communities have been left out.

As the state moves toward a clean energy economy, it's important that energy efficiency remains inclusive. To do this, the financial strain and stress of implementing the programs must be lifted off the shoulders of residents. One way this can be achieved is by decoupling and incentivizing the state's utilities to robustly invest in energy efficiency programs without worrying about their bottom line. That way, comprehensive energy efficiency programs can be launched, ultimately leading to residents in all communities reducing their energy usage and increasing their savings. This broad participation would enable utilities to focus on much-needed investment and job creation in historically underserved communities.

Additionally, stretching out the financing of energy efficiency programs for utilities over 15 years compared to 7 years, as suggested in the Straw Proposal, would help reduce the financial impact, particularly on residents in low- and moderate-income communities who already pay disproportionately more on their energy bills. Lengthening the time would also provide the highest correlation of cost to recovery benefits.

Energy efficiency is a crucial step in the process of combatting climate change, but it will only work if the right framework is put in place. I appreciate your consideration, thank you.

Sincerely,

Bob Fell

1 Rosewood Drive
Chesterfield NJ 08515

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April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states, "While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc.

The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

    a) Home Performance with ENERGY STAR.

    b) WARMAdvantage.

    c) COOLAdvantage.

    d) Pay-for-Performance.

    e) Direct Install.

    f) SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

a) Accessibility to all programs to all contractors in all territories.

b) Incentive offerings must be indistinguishable across utilities.

c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

b) Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

c) Question 3: Will the BPU insist that each utility utilize the same software platform?

d) Question 4: Will the BPU require program paperwork, financing, incentive application as well as claiming these items at a project completion be seamlessly identical throughout New Jersey's utilities?

e) Question 5: For programs with a financing option, will the BPU require that payment timelines for project financing (if not on-bill) and rate payer incentive payment be the same across all utilities?

f) Question 6: How will the BPU ensure uniformity in applications, payment timelines and procedures?

g) Question 7: How will the BPU ensure that projects in overlapping gas/electric utility territories receive just one project QA inspection and ensure consistency?

h) Question 8: Would the BPU allow fuel conversions and if yes, how would they be managed?

3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

a) Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration, it is critical that the program designs, including eligibility and evaluation requirements, ***are consistent*** across the state. ***Offering the same*** core programs across the state will streamline program offerings for specific market sectors, ensure effective

marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

i) Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

b) Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

i) Question 1: When the document states "not required" does that mean they can vary or eliminate a current core program currently offered or that the utilities will be allowed to alter its current design?

ii) Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

iii) Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

c) Statement 3: "Following the filing of consistent programs, utilities should continue to collaborate in order to implement programs in a **similar** manner and should develop supportive processes, such as consistent procurement processes, procedures, requirements, and forms. This will be especially important in locations where gas and electric service territories overlap."

i) Question: Is there a plan in place to ensure the collaboration between utilities happens? Is this an opportunity for NJ ACCA to assist?

d) Statement 4: "The Board identifies the programs that must be delivered consistently statewide by all utilities, and the individual utilities each hire implementation contractors to implement the programs."

i) Question: How will the board ensure equity across all utilities and through implementation?

e) Statement 5: "Staff believes that, while all of these models may work for various programs, the key format for New Jersey is that the utilities collaborate, with **input from BPU and stakeholders**, on program design, requirements, etc. and deliver consistent core programs on a statewide basis."

i) Question: Will the contracting community also participate, and will the outcome of this collaboration result in seamless consistency of programs across all utilities and will benefit the ratepayers, stakeholders and contractors equally?

f) Statement 6: "Stakeholders emphasized the need for programs to be nimble in responding to market shifts without undergoing a full regulatory proceeding. While **strong oversight of programs** must also be maintained, Staff recommends allowing utilities…… Utilities will be permitted to make minor adjustments to program design with Staff approval."

i) Question: To ensure consistency, will these nimble adjustments be implemented by all utilities at the same time?

g) Statement 6: "Budget Shifts Within a Sector: Sectors are any grouping of programs that focus on similar target markets, including but not limited to: residential, commercial and industrial, multifamily, low income, and small business. Utilities will be able to **shift budgets up to 10%** of the individual program budget between or among programs in the same sector with Staff notification; this applies only to an individual utility's budget in situations where the shift would not result in a change to the utility's overall budget. For **budget shifts ranging from 10%-20%** between or among programs within a sector **Staff approval will be required for proposed budget shifts exceeding 20%**."

i) Question: Could it be possible for one utility to adjust or exhaust a core program's budget that would result in a ratepayer in an overlapping utility territory to be shut out of a core statewide program offering?

h) Statement 7: "Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval**. Any adjustments exceeding **40% of approved levels will require full Board approval**."

i) Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues, what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Angela G Hines, President
Rubino Service Company

SANDERS
HOME SERVICES
Plumbing ★ Heating ★ Cooling ★ Electrical

April 10, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states, "While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

    a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size,

resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

    a) Home Performance with ENERGY STAR.

    b) WARMAdvantage.

    c) COOLAdvantage.

    d) Pay-for-Performance.

    e) Direct Install.

    f) SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

a) Accessibility to all programs to all contractors in all territories.

b) Incentive offerings must be indistinguishable across utilities.

c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

b) Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

c) Question 3: Will the BPU insist that each utility utilize the same software platform?

d) Question 4: Will the BPU require program paperwork, financing, incentive application as well as claiming these items at a project completion be seamlessly identical throughout New Jersey's utilities?

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We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Peter R. Sanders Sr.
President
PR Sanders Inc.
dba Sanders Home Services

Salvation and Social Justice

Liberating Public Policy Theologically

April 13. 2020
New Jersey Board of Public Utilities
Re: Energy Efficiency Transition – Full Straw Proposal

Salvation and Social Justice (SandSJ) is a New Jersey nonpartisan organization that advocates for public policy that prioritizes poor, underserved Black communities. Our work puts us in connection to hundreds of Black faith leaders and congregations across the state. The faith leaders we work with have first-hand experience helping people navigate emergency energy costs burdens. Therefore, SandSJ has closely monitored the *Straw Proposal for New Jersey's Energy Efficiency and Peak Demand*. Low income families pay the highest in utility bills and much of it is due to the condition of their dwellings and age of their appliances. Energy bills are one of our hardest burdens. Those bills will only get higher as we are forced to stay in our homes and self-isolate to prevent illness from the virus.

Energy efficiency investments in urban communities must be a major focus. That foci ought to include; retro fitting, appliance replacements, positive incentives for energy efficiency, no out of pocket costs, energy efficiency job training for low income residents, and a robust outreach effort. These focused investments are the most direct way to include struggling communities in the green revolution and most importantly the "green" economic benefits through savings and jobs that are desperately needed.

We support and commend the board for its far-sighted effort to ensure that proposed efforts directly target low-income families and individuals of our state. However, we ask that you ensure that your actions help, and not harm those we serve. Any rate increase on low-income consumers would hurt. Energy efficiency savings achieved through investment in low-income communities would be negated if rates are increased.

It is essential that the board make the necessary investments. And as community partners in this process, we would advocate that the targets be higher, that utilities exceed what the plan requires. To keep investments affordable for utilities, and to ensure low-income customers receive the greatest benefits from energy efficiency while avoiding rate increases— and to ensure we connect investments to supplier diversity and jobs targeting low-income communities— utilities must be able to amortize their cost over 15 years.

We truly appreciate your attention to this critical matter and look forward to inclusion of these priorities.

Sincerely,

Rev. Dr. Charles F. Boyer, Director

Salvation and Social Justice
Liberating Public Policy Theologically
856.318.4529
revboyer@SandSJ.org

From: Shawn Kuehn
To: energyefficiency
Subject: [EXTERNAL] Straw Proposal
Date: Tuesday, April 14, 2020 7:26:38 AM

As a New Jersey small business owner of SEK Enterprises, I am writing to urge the BPU to invest in energy efficiency. We need to create a framework where investments in energy efficiency can really succeed, which is lacking in the current Straw Proposal.

SEK Enterprises and I am concerned that the Straw Proposal for New Jersey's energy efficiency transition plan does not include a long enough period of time to finance these investments in energy efficiency. If we do not lengthen this timeline, it'll be harder to ensure a smooth transition. This means small businesses like mine could end up feeling intense economic strain.

I also want to strongly encourage the BPU to include decoupling in the Straw Proposal. This would allow our utilities to fully invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas. Full decoupling would also encourage New Jersey residents cut down on their energy usage and save money; that's good for our state and our environment.

Sincerely,

Shawn Kuehn
CEO
10 Furnace Street
Stanhope, NJ 07874

From:	Francisco Cortes
To:	energyefficiency
Subject:	[EXTERNAL] Energy Efficiency Transition – Full Straw Proposal
Date:	Thursday, April 9, 2020 11:30:44 AM

April 09, 2020

New Jersey Board of Public Utilities

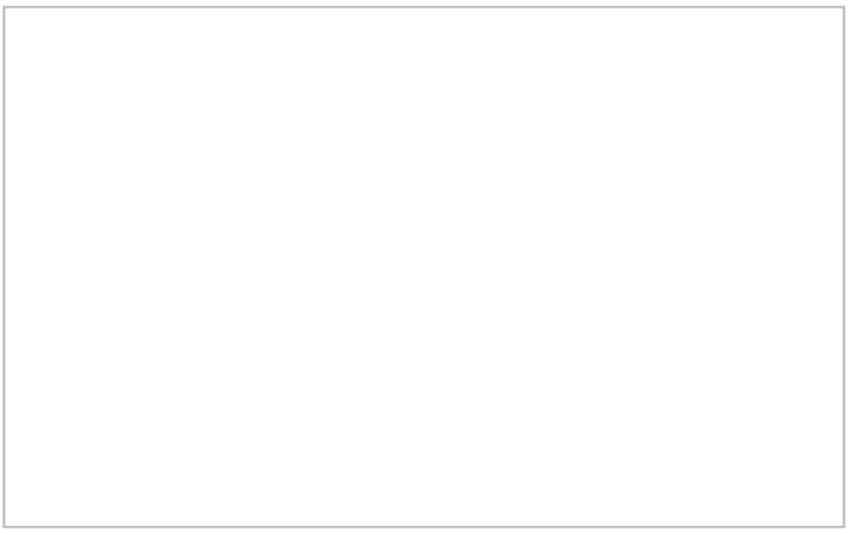
44 South Clinton Avenue
Post Office Box 350
Trenton, NewJersey 08625-0350
Attn: Aida Camacho-Welch,

I am writing to urge the BPU to move as quickly as possible to implement an energy efficiency transition plan that looks out for all of New Jersey's residents. As CEO, The Setroc Group, Inc, I know firsthand just how massive and disproportionate the impact of rising energy costs can be on our low- and moderate-income residents. Some of these households spend nearly 10 percent of their income on energy bills.

Accordingly, to help our Latino and other historically underserved communities, it is critical that the Straw Proposal adopt a more realistic timeline for the financing of energy efficiency programs. If the plan is financed over 15 years instead of the proposed 7 years, it will undoubtedly lessen the economic impact on New Jersey's low and moderate income residents and make a smoother transition to energy efficiency.

Thank you for your attention and for considering our perspective.

Sincerely,



From:	Derek McNeil
To:	energyefficiency
Subject:	[EXTERNAL] NJBPU's Energy Savings Final Straw Proposal
Date:	Monday, April 13, 2020 3:38:01 PM
Attachments:	image001.png

Dear Members of the Board,

As a lifelong advocate for the State of NJ's underserved communities and NJ resident, I write to register my misgivings concerning the NJBPU's Energy Savings Final Straw Proposal.

The plan, as proposed, is not inclusive of all New Jersey communities. It needs to remove barriers (coupling) so that utilities are completely incentivized to work with all residents on energy efficiency and create jobs in low- and moderate-income communities, not just the most affluent.

These families also bear the brunt of rising energy costs, spending disproportionately high amounts on their energy bills. That is why BPU needs to spread this transition out over a longer period of time to greatly lessen its economic burden on "all" consumers.

As New Jersey moves to a new energy paradigm, I hope the final energy efficiency plan will provide benefits that are accessible to all New Jersey residents. Thank you for your consideration.

Sincerely,

Derek W. McNeil
Managing Director | Head of Mid-Atlantic Region
Siebert Williams Shank & Co., LLC
100 Wall Street, 18th Floor
New York, NY 10005
T: 646-775-4848 | M: 646-640-6007 | E: dmcneil@siebertwilliams.com

April 13, 2020

Submitted electronically to Board.secretary@bpu.nj.gov

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625

RE: Energy Efficiency Transition-Full Straw Proposal

Dear Ms. Camacho-Welch:

Signify (formerly Philips Lighting) appreciates the opportunity to provide written comments towards the April 1,2020 "Energy Efficiency Transition-Full Straw Proposal". Our detailed comments follow.

Signify is a global leader in lighting products, systems, and services. Our understanding of how lighting positively affects people, coupled with our deep technological know-how, enables us to deliver digital lighting innovations that unlock new business value, deliver rich user experiences and help to improve lives. Serving professional and consumer markets, we sell more energy-efficient LED lighting than any other company. We lead the industry in connected lighting systems and services, leveraging the Internet of Things to take light beyond illumination and transform homes, buildings and urban spaces. Signify employs 30,000 people in 70 countries, with its largest market being the US. Signify has manufacturing operations in multiple US locations and employs 3,000 people across the nation. Our US corporate headquarters is in Somerset NJ and is home to more than 275 employees.

Signify is proud to lead the lighting industry's transformation from conventional to connected lighting. When it comes to energy efficiency, Signify "walks the talk". We set ourselves the world-leading target to deliver more than 2 billion LED lamps and luminaires by 2020 and currently we have exceeded this with over 2.3 billion products introduced to the market. More than a year ago, our U.S. operations achieved carbon neutrality and all the company's operations will be net zero carbon by the end of this year. Worldwide, 92% of our electricity use comes from renewable sources, over 82% of our revenues are from the sales of sustainable products and we were recently named industry leader by in the 2019 Dow Jones Sustainability Index (DJSI) for the third consecutive year.

Please contact me if you have any questions.

Sincerely,

Dr. David woodward

Head of Standards and Regulations Americas
Head of Government Relations US
Signify North America Corporation
c: (662) 321-7305
e: David.r.wooodward@signify.com

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Signify North America Corporation
938 South Green Street, Tupelo MS 38802. | www.signify.com

Comments
Energy Efficiency Transition-Full Straw Proposal

April 01, 2020

Signify welcomes the opportunity to comment on the topic of the Energy Efficiency Transition-Full Straw Proposal. Our general observations about this subject are below.

General Comments

Signify fully supports the New Jersey Clean Energy Program. In review of the recent Straw Proposal we would like to add the following comments.

Detailed Comments

As a corporation with National Headquarter in New Jersey we applaud the efforts of the Board of Public Utilities and the work of State Government to draft a comprehensive Clean Energy Program.

We understand that commitments to Energy Programs must balance the sustainability goals of an organization and the financial commitments they entail. An equitable policy by the BPU to allow Utilities to achieve a fair and balanced return on their investment in energy programs equal to return on investment of other capital expenditures is a prudent approach to encourage Utilities to invest in such programs. It is imperative for the successful implementation of the Clean Energy Act that utility investment in energy efficiency is made at the full allowed Return on Equity as established in each utility's most recent base rate case.

In addition, when looking at the "Best Practices" approach to energy efficient programs, programs that contemplate a wholistic view of the implementation of energy initiatives with an eye to the lifecycle benefits of the energy upgrade results in highest "Societal Benefit" calculation.

When a comprehensive view of implementing a lighting upgrade is conducted, evaluating benefits beyond energy reduction must be considered. In the current state of the industry advanced controls coupled with the lighting infrastructure upgrade have resulted in enhanced energy reduction, accurate and reliable M/V reporting, compliance with Ashrae 90.1, enhanced point achievements on LEED certified projects, increased quality of life, enhanced productivity, increased cognitive behavior and optimized space utilization.

It is for this reason we are stressing the need to allow an amortization period equal to the weighted average measure life, or approximately 15 years. This amortization period allows for the best " Total Cost Value Package" to be recommended by the Utilities and avoids the all too often mistake of quick short-term low-quality upgrades with no forward-looking vision for the entity receiving the upgrade.

The World health Organization states that improved lighting and controls has the greatest impact on improved employee performance. Independent studies have shown a 10-20% improvement in overall productivity. The most often referenced adage is the JLL principal in that a company will spend per

sf/year $3 on Utilities, $30 on space and $300 on employees. Lighting Programs that go beyond just the energy savings calculation have the ability to optimize space utilization and increase employee well being and productivity, thereby resulting in a greater overall impact to an organizations bottom line.

Therefore, Signify stresses the need to allow the utilities to explore a fuller depth of offering through their programs, while minimizing rate shock to customers, and therefore an amortization period of 15 years is recommended.

Furthermore, with the conclusion of a Public Stakeholder Meeting specifically surrounding LED Streetlight/Smart Cities on January 14, 2010 and the overall favorable response. Signify would like to recommend to the Board that a Streetlight subprogram be included in the next revision of the Straw Proposal.

End of Comments

SJI Utilities

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Union, NJ 07083
T: (908) 662-8448
F: (908 662-8496
dfranco@sjindustries.com

Deborah M. Franco, Esq.
Director, Regulatory Affairs Counsel

April 13, 2020

VIA ELECTRONIC MAIL
Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625
energyefficiency@bpu.nj.gov

Comments: Energy Efficiency and Peak Demand Program Administration Straw Proposal

Dear Secretary Camacho-Welch,

These comments are respectfully submitted on behalf of South Jersey Gas Company ("SJG") and Elizabethtown Gas Company ("ETG") (collectively, the "Companies") in response to the Energy Efficiency and Peak Demand Program Administration Straw Proposal ("Straw Proposal") released by the New Jersey Board of Public Utilities ("Board") on March 20, 2020. Through these comments, the Companies incorporate and support by reference the comments submitted by Gabel and Associates, Inc. ("Gabel Comments") and the New Jersey Utilities Association ("NJUA") on this same day and provide additional comments on certain topics reflected below.

The Companies sincerely appreciate the opportunity to comment on this important matter. As consistently indicated, SJG and ETG remain committed to supporting the State's energy efficiency goals and appreciate the key role the Companies play in achieving the energy consumption reduction targets contained in the New Jersey Clean Energy Act of 2018 (the "Act"). The Companies have been regularly engaged in the promotion of energy efficiency in New Jersey for many years with much success and will continue to support programs that encourage a reduction in energy consumption. Beginning well before the promulgation of the Act, energy efficiency programs at SJG and ETG have saved customers money while reducing greenhouse gas emissions. To date, SJG and ETG have accomplished the following through BPU-approved energy efficiency programs:

- Served over 30,000 customers
- Invested $113 million in energy efficiency measures
- Achieved 880,000 metric tons of lifetime CO2 emissions reductions
- Achieved 24 million dekatherms of lifetime gas savings and
- Assisted 18,000 low-income families through the Comfort Partners Program

SJG and ETG applaud Staff's extraordinary efforts throughout the stakeholder process and for the immense work put into the Straw Proposal. At the same time, like other utilities and stakeholders, SJG and ETG remain concerned about the ambitious goals and energy savings targets,

as well the many significant prescriptions on cost recovery and other areas, which may now be even more difficult to meet than before given the impact that the pandemic may have on the economy, customer interest in participating in energy efficiency programs, and even a utility's ability to access homes and businesses. Thus, in an effort to best position New Jersey to realize the goals in the Act, SJG and ETG respectfully request consideration of the suggestions set forth below and in the comments of NJUA and Gabel to improve the Straw Proposal.

A. Filing Deadline

Throughout this process, each of the utilities have expressed concern about the compressed timing between the issuance of a final Board decision and the due date for utility energy efficiency filings. The Straw Proposal contains two different due dates for the submission of the three year utility energy efficiency filings. Page 19 of the Straw notes a late Summer 2020 submission and Page 55 references a Fall submission. Given the extensive amount of work required to prepare this multi-year filing that will call for considerable coordination among utilities and others, SJG and ETG support the following schedule, which has the unanimous support of the electric and gas utilities:

- Filings to be submitted by October 31, 2020
- Window for the 180-day review period would run from November 2020 to April 2021- leaving sufficient time for Board approval 30 days prior to the start of the energy year.

This proposed schedule will enable the utilities to prepare thoughtful and accurate filings, while allowing the Board and other stakeholders, including the New Jersey Division of Rate Counsel, ample time to conduct a thorough review. Thus, this schedule represents an equitable and balanced approach which SJG and ETG respectfully urge be adopted.

B. Cost Recovery

1. Lost Revenue

SJG and ETG are pleased with the Straw Proposal's support for the Conservation Incentive Program ("CIP") (at 10, 40) a form of decoupling, that has been in place for more than 13 years for SJG and New Jersey Natural Gas Company ("NJNG"). CIP has resulted in considerable cost and usage reduction benefits to customers and SJG and ETG agree that CIP should be an available mechanism to all utilities, where appropriate, subject to terms and conditions that make sense for individual utilities at the time of the filing. For example, the CIP contains certain requirements such as a BGSS savings test and a shareholder contribution that are better addressed on a case-by-case basis. Where a CIP is pursued, these issues should be addressed by utilities in their individual filings for cost recovery mechanisms associated with their respective energy efficiency programs.

In addition, the Staff proposal states (at 41) a preference for a Lost Revenue Adjustment Mechanism, while also remaining open to decoupling proposals from utilities in the context of a base rate case. SJG and ETG respectfully encourage the Board to adopt a form of decoupling, or the CIP, as the preferred lost revenue recovery mechanism. Decoupling will sever the link between the throughput incentive for utilities and therefore will align the utility business model in New Jersey

with the state policy objective of conservation and promoting energy efficiency programs consistent with the goals of the Act.

SJG and ETG do not agree that consideration of a decoupling mechanism should only be addressed in a base rate case. Consistent with the BPU's broad ratemaking authority, the BPU has the ability to review a decoupling proposal outside of the base rate case process and there is no compelling reason to impose any restriction on when a utility can file for decoupling. Rather, utilities should be free to propose a recovery mechanism of their choosing without opening a new rate case proceeding in order to facilitate the growth of energy efficiency in New Jersey without delay.

Finally, SJG and ETG support the NJUA and Gabel comments regarding the propriety of (1) allowing all lost revenues associated with energy efficiency and peak demand reduction efforts to be recoverable, regardless of who administers the programs; and (2) permitting lost revenue recovery to reflect sales on a gross, ex-post savings basis because these are the actual, quantified program impacts captured through efficiency programs. For the reasons reflected in the NJUA and Gabel comments, these recommendations will best simulate what will be occurring in reality and is consistent with the Act and New Jersey's ambitious energy efficiency goals.

2. <u>Return on Equity Basis Point Reduction</u>

The Straw Proposal (at 39) recommends that utility investments should "utilize the capital structure established in each utility's most recent base rate case, incorporating both (a) the cost of debt and (b) the return on equity ("ROE") less 100 basis points." While SJG and ETG acknowledge that this proposal represents a slight improvement over the prior draft proposal of a 200-basis point reduction, any reduction in ROE is completely unreasonable, unprecedented and serves as a penalty for all investments in energy efficiency as the utilities will not be able to recover their full costs of making the investments. The Companies are unaware of any regulatory proceeding, including punitive actions, where such a draconian reduction in ROE was imposed.

The Straw Proposal maintains that the 100 basis point adjustment reflects the risk reduction associated with these investments largely due to how they are recovered. The Companies disagree. Regardless of how they are recovered, energy efficiency investments are not less risky than other investments and there is no valid basis for making this distinction. Indeed, energy efficiency programs are subject to an ever changing market, combined with economic and business risk factors that have arisen as a result of the pandemic. Utilities and contractors continue to be prohibited by law from entering homes for nonemergency work and there is no way to determine how long the prohibition will be in place, or what the long-term impact of the pandemic will be on customer behavior, including customer hesitation to allow energy efficiency contractors into their homes.

Using the same ROE for energy efficiency investments and traditional utility investments puts energy efficiency on a 'level playing field' with traditional investments to help further incentivize the installation of energy efficiency in the state. SJG and ETG strongly object to any reduction in ROE on energy efficiency investments and respectfully urge the BPU to reject the Straw Proposal as unreasonable and inconsistent with the intent of the (<u>N.J.S.A.</u> 48:3-87.9.e.(1)) which provides that utilities are entitled to recover on a full and current basis all reasonable and prudent

energy efficiency program costs, including a return of and on capital investments, as well as the impact of lost sales revenues.

3. Amortization Period

The Staff Proposal recommends that "program investments will be amortized over a seven-year period." (at 38). While SJG and ETG recognize that some utility energy efficiency programs currently provide for a seven-year amortization period that derive from negotiated settlements, an amortization schedule for energy efficiency investments based on the weighted average lifetime of the portfolio is more appropriate. At a minimum, the useful life should be set at no fewer than 10 years.

C. Goals, Targets and Evaluation

1. Clean Energy Act Overall Savings Targets

The Act sets savings targets at 2.0% for electric and 0.75% for gas, placing achievement of these targets in year 3 for gas utilities and between years 4 and 5 for electric utilities. However, despite clear statutory language, the Straw Proposal far exceeds these statutory targets, recommending a net reduction of 1.1% for gas consumption and 2.15% for electric consumption. These targets are unrealistic and unfair. SJG and ETG recommend that instead of adopting this "one size fits all" approach that the utilities instead be permitted to propose reasonable achievable targets in their first three-year program filings. This will allow utilities to tailor specific savings targets for their service territories. Goals for years 4 and 5 should be revisited following the completion of the baseline and updated market potential studies.

2. New Jersey Clean Energy Program Annual Energy Savings Targets

The Straw Proposal recommends (at 33) that the New Jersey Clean Energy Program ("NJCEP") Savings targets be "subtracted from the utility-specific overall energy savings targets in order to derive the "Utility Program Annual Energy Savings Target(s).""" The NJCEP Annual Energy Savings Targets should be increased to match the appropriate level of savings expected from the programs being retained by the State. There should be an increase in the annual contribution of savings from NJCEP to account for the energy savings opportunities of programs being retained by the Office of Clean Energy ("OCE"). These programs have substantial savings opportunities, and this should be reflected in the OCE targets.

3. Ramp Rates

The Straw Proposal recommends that utilities plan to use the overly ambitious ramp rates contained in the Market Potential Study, which require electric utilities to achieve 0.75% savings in year one and 2.15% savings in year five, an increase of 0.35% saving each year. It requires gas utilities to achieve 0.25% in year one and 1.10% in year five, an increase of 0.25% in the early years and de-escalating to 0.15% in the final year. The Staff prescribed ramp rates are the same for all utilities, irrespective of whether or not the utility is already running programs.

While SJG and ETG appreciate that the Staff proposed ramp up in energy savings targets is well intentioned, unfortunately it is also unduly aggressive and unrealistic. Ramp rates should be proposed by utilities in their filings, who will develop portfolios based on unique demographic and other characteristics and then be subject to BPU review.

4. Net versus Gross Savings

The Straw Proposal recommends (at 53) that "energy savings should be reported in both gross and net savings, with net savings utilized for all aspects of program review, including cost-effectiveness testing and compliance". However, gross, not net, savings are the appropriate metric to use to measure and report savings for compliance with the Act. Under the plain language of the Act, *all* energy savings are to be applied by the utilities. N.J.S.A. 48:3-87.9(c) states that "A public utility may apply *all energy savings* attributable to programs available to its customers, including demand side management programs, other measures implemented by the public utility, non-utility programs, including those available under energy efficiency programs in existence on the date of enactment of the [CEA], building codes and other efficiency standards in effect, to achieve the targets established in this section." *Id.* (emphasis added). In other words, the Act makes clear that the utilities can count all savings that occur and not just a portion of those savings.

5. Cost Caps

The Straw Proposal provides that (at 28) "final cost to achieve projections will be used to evaluate cost effectiveness of program portfolios and to evaluate budgets proposed in the filing process." It further provides (at 85) that "[u]tilities should file programs whose costs fall within the below-detailed sector-based costs to achieve ranges." It finally states (*id.*) that the cost to achieve scenarios "were modeled based on nation-leading programs in Massachusetts and Rhode Island." These cost caps which are not based on New Jersey data and will be severely outdated by the time utilities file program plans should be eliminated. Instead, utilities should be encouraged to develop cost-effective energy efficiency that is appropriate in New Jersey.

D. Programs and Filing Requirements

1. Codes and Standards Program

The Straw Proposal contains no savings associated with codes and standards programs. Codes and standards programs typically produce savings by increasing compliance with existing codes and advocating for increased codes. Leading energy efficiency states like California and Massachusetts attribute a significant percentage of their energy savings from such efforts. For example, in California, the 3-year gross savings from the State's Codes and Standards program contributed 70% of the State's total gross electric savings and 48% of the gross natural gas savings.[1] It is completely unreasonable to expect the state to reach energy savings targets comparable to leading states without consideration of these savings- which are often found to be the most cost effective long-term savings. As required by the CEA, energy savings from Codes and Standards efforts must be considered. Only after consideration of those savings can the Board reasonably determine what the appropriate share of the remaining targets should be for NJCEP and the utilities. As discussed further in the Gabel

[1] Energy Efficiency Portfolio Report, California Public Utilities Commission, May 2018.

and NJUA comments, potential savings associated with codes and standards be included in the NJCEP Annual Energy Savings Target and an effort should be made to support codes and standards programs that maximize savings from this segment of the market.

2. Low and Moderate Income Customer Programs

To ensure that the benefits of energy efficiency are available to low and moderate income customers, it is critical that the Straw Proposal (at 71) be enhanced to optimize the delivery of energy efficiency offerings to this underserved group. Toward that end, SJG and ETG agree that Comfort Partners should continue, but program funding and participation should be increased and the Comfort Partners Program should be the sole responsibility of the utilities. Specifically, the Comfort Partners Program and associated offerings should be part of the utilities' energy efficiency portfolios and budgets to be included in the filings that will be made by the utilities after the Board's consideration of the Straw Proposal. In this way, the benefits to low income customers of the Comfort Partners Program will be maximized, while ensuring that utilities control key responsibilities of the program, which is an equitable solution to the extent utilities are also responsible for the performance of the Comfort Partners program.

Health and safety concerns have historically been a barrier to participation in the Comfort Partners Program by low-income customers. A significant portion of interested low income customers have health and safety conditions (*e.g.* asbestos, lead paint, mold, roof leaks, moisture in basement or crawlspaces, open sewer or drain lines, leaky plumbing, insect infestations) that are beyond the means of Comfort Partners budget. While Comfort Partners allows for the improvement of minor health and safety issues to ensure the completion of weatherization measures, program rules do not currently provide sufficient funding to tackle these more challenging and expensive conditions. It will be critical to expand future Comfort Partners budgets to allow these health and safety concerns to be addressed. Such an expansion, combined with inclusion of the Comfort Partners Program in the utilities' energy efficiency portfolios and budgets, will help to ensure the success of serving low income customers who participate in this program.

Additionally, SJG and ETG have been operating moderate income weatherization programs with great success for several years. SJG and ETG support an expansion of moderate income programs that would allow for automatic eligibility for specific geographic locations that have a high population of eligible customers and/or meet other policy priorities (e.*g.* census tract, Urban Enterprise Zones, Opportunity Zones, environmental justice communities). Such an expansion will further ensure that the moderate income market has a fair opportunity to participate in program offerings and experience the full benefits of energy efficiency.

3. Online Marketplace Program

The Straw Proposal requires (at 71) that utilities "adopt a single online platform for an energy efficiency products marketplace". SJG and ETG disagree. SJG has been successfully operating a marketplace with considerable customer participation for the last year and opposes a model that limits it in the future to a single online platform. To date, more than 20,000 customers have participated in the SJG marketplace and received over 28,000 rebated products. A model that would limit the structure to a single online platform will undermine successes like these and diminish the importance of the individual utility-customer relationship in this space and the value it has in

promoting savings. Responsibility for the marketplace should remain with the individual utilities. In conjunction with utility management of the marketplace, utilities should also be responsible for the entire suite of efficient products, including WARM Advantage, COOL Advantage, Marketplace, Appliance Recycling and Retail Products. This will ensure consistency for customers across programs, eliminating multiple points-of-touch, providing better, faster customer service, partnering with local retailers, and integrating with Demand Response into energy efficiency offerings.

4. <u>Budget Reallocation</u>

The Straw Proposal states (at 26-27) that "Utilities will be permitted to make minor adjustments to program design with Staff approval" and "Staff will be required to approve or deny the proposed change within thirty days of submission." Specifically, "Utilities will be able to shift budgets up to 10% of the individual program budget between or among programs in the same sector with Staff notification." "For budget shifts ranging from 10%-20% between or among programs within a sector Staff approval will be required." Any "budget shifts exceeding 20% will require Board approval." It further provides that "Staff approval will be required for budget shifts up to 5% between sectors" and "budget shifts exceeding 10% between sectors will require Board approval." "Budgets for Low-Income programs and Small Business programs will not be eligible for shifting between programs or sectors without Board approval." "Utilities will be able to adjust energy efficiency and peak demand management measure incentives up to 20% of approved levels with Staff notification. Adjustments ranging from 20%-40% will require Staff approval. Any adjustments exceeding 40% of approved levels will require full Board approval."

SJG and ETG, who have successfully operated energy efficiency programs with the flexibility to transfer budgets among energy efficiency programs, disagree with this proposal. Accordingly, SJG and ETG support the following as reflected in the comments of NJUA:

Category	Straw Proposal	Utility Recommendation
Budget shifts within a sector	• Up to 10% with staff notification • 10-20% with staff approval • >20% requires BPU commission approval • Cap on # of adjustments per year	• up to 50% with staff notification but will commit that no transfer will result in a program shutting down • >50% requires BPU commission approval • No cap on # of adjustments
Budget shifts between sectors	• Up to 5% requires staff approval • >10% requires BPU comm approval (note gap error) • BPU comm approval required for any shifts with low income or small business.	• Up to 25% with staff notification • >25% BPU approval
Incentive adjustments	• Up to 20% with staff notification • Between 20-40% requires staff approval • >40% requires BPU approval	• Up to 50% increase with staff notification and no limit on reduction of incentives • >50% requires BPU approval

5. **Planning and Program Development Costs**

For the reasons set forth in the NJUA comments, SJG and ETG respectfully urge the Board to authorize utilities to begin accruing planning and program development costs. Given the expedited timeframe to prepare the filing and the significant interest in ensuring utility coordination, utilities will need to hire consultants and potentially additional staff to coordinate and prepare the filings and be ready to start launching programs by July of 2021. This authorization is critical to ensuring that the utilities are appropriately resourced to meet the new regulatory obligations, particularly those that have not historically had programs as large as some of the other utilities in New Jersey.

SJG and ETG appreciate the opportunity to submit these comments and look forward to continued collaboration with all stakeholders to further improve the Straw Proposal and to help facilitate the State's energy efficiency goals.

Respectfully submitted,

Deborah M. Franco

Deborah M. Franco

sunrun

Comments of Sunrun Inc. on Straw Proposal for
New Jersey's Energy Efficiency and Peak Demand Reduction Programs
Submitted: April 13, 2020
To: EnergyEfficiency@bpu.nj.gov

Secretary Camacho-Welch,

Sunrun Inc. ("Sunrun") hereby submits comments on the New Jersey Board of Public Utilities' ("BPU" or the "Board") Straw Proposal for New Jersey's Energy Efficiency and Peak Demand Reduction Programs issued on March 20, 2020 ("Straw Proposal"). Sunrun has participated in numerous energy efficiency transition stakeholder meetings and provided written comments during this process. New Jersey's transition to greater deployment of energy efficiency and peak demand reduction resources should be anchored in enhancing consumer choice, leveraging the expertise and cost saving advantages of competitive market providers, and integrating customer-sited battery storage as a peak demand reduction resource.

Sunrun appreciates the opportunity to provide the following comments on the Straw Proposal and looks forward to continued engagement in the implementation of the energy efficiency mandates of the Clean Energy Act of 2018.

Background on Sunrun Inc.

Sunrun is the largest residential solar, storage, and energy services company in the country with more than 233,000 customers in 22 states, including New Jersey, and in the District of Columbia and Puerto Rico. We pioneered the "solar-as-a-service" model over 12 years ago to make solar energy more accessible to residential customers. With Sunrun's rooftop solar, battery storage and energy services products, homeowners are saving money, reducing their greenhouse gas footprint, and becoming energy management partners capable of delivering grid benefits and lowering system costs for other ratepayers. Through coordinated operation, customer-sited solar plus battery storage can provide clean and cost-effective peak reduction benefits to New Jersey's electric grid and cost savings to New Jersey ratepayers.

Sunrun has been an active participant in several other clean energy stakeholder processes before the Board, including, but not limited to, the Energy Master Plan, Energy Storage study and Solar Incentive Transition. Sunrun is also a participant in Docket No. EO18101113, *In the Matter of the Petition of Public Service Electric & Gas Company for Approval of its Clean Energy Future-Energy Efficiency ("CEF-EE") Program on a Regulated Basis* pending at the BPU. Sunrun is committed to collaborating with New Jersey energy stakeholders on energy efficiency and peak demand programs to empower consumers, reduce costs and facilitate a more resilient energy delivery system for New Jersey.

Summary of Recommendations

Sunrun agrees with the Straw Proposal's assessment that all New Jersey residents should have equitable access to the energy efficiency and peak demand reduction programs.[1] The Straw Proposal's emphasis on statewide consistency across utility territories for core program offerings provides an important foundation for achieving this underlying principle.[2] Statewide consistency in core offerings will help reduce market confusion and drive down costs by allowing competitive service providers to develop consistent energy efficiency and peak demand reduction products across utility territories.[3] Sunrun supports the adoption of core program offerings applicable statewide to ensure that all customers have the choice to adopt core energy efficiency and peak reduction products regardless of utility territory.

Sunrun offers two specific recommendations for core program offerings: (1) Staff should adopt affirmative requirements for utilities to provide pathways for competitive market providers to deliver these (as well as other) energy efficiency and peak demand reduction offerings[4]; and (2) bring-your-own-device ("BYOD") programs that leverage customer sited energy storage assets should be included as a core peak reduction program offering. For this second recommendation, Sunrun recommends that the BYOD program be first implemented by all electric utilities as a pilot program in year one and then scaled to full program status after completion of a pilot program evaluation and review confirming the program delivers net benefits and providing feedback on adjustments to enhance the program on a full scale basis.

Competitive Market Participation in Energy Efficiency and Peak Reduction Program Delivery Enhances Customer Access and Choice

As a restructured electricity market, New Jersey must support the participation of competitive suppliers and developers in the marketplace so that consumers are empowered to choose the energy services most affordable for them and their families. Upholding principles of competition drives down costs and is critical to achieving the state's goals of greater diversity, economic development and community revitalization.

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1 Straw Proposal at 28 (stating "[g]uided by the Clean Energy Act, the Energy Master Plan, and various Executive Orders, including EO 23, as well as the principles established for the development of the energy efficiency transition, Staff seeks to ensure equitable access to energy efficiency and peak demand reduction products and programs for all residents in the state").

2 Straw Proposal at 9 (stating "chief among the policy goals of the State should be ensuring a uniform base set of programs among all utilities for the benefit of residents").

3 Straw Proposal at 26 (noting that establishing statewide standards for contractors across service territories, coordinating trade ally support, and standardizing contractor training materials wherever possible can help strike a balance between fostering competitive market participation and limiting market confusion as well as lower barriers and encourage historically underrepresented and disadvantaged businesses to become service providers).

4 *See e.g.,* Straw Proposal at 26 (stating "[u]tilities *should* consider pathways for appropriate parties to participate in their programs as developers, implementers, contractors, or other such roles as necessary." This should be revised to state "utilities *shall provide* pathways for appropriate parties to participate . . .").

Competitive market principles are well-established in New Jersey state law. Indeed, N.J. Stat. § 26:2C-45 states "that public utility involvement *and competition* in the renewable energy, conservation and energy efficiency industries are essential to maximize efficiencies" (emphasis added) and that "the use of renewable energy and that the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) should be *implemented to further competition*" (emphasis added). Moreover, the guidance provided in N.J. Stat. § 48:3-98.1(b) that when determining the recovery by electric and gas public utilities of energy efficiency, conservation and renewable energy program costs, "the board may take into account the potential for job creation for such programs, *the effect on competition for such programs*, existing market barriers, environmental benefits, and the availability of such programs in the marketplace." (emphasis added).

In order to ensure the highest value for ratepayers, both in the near and long-term and to meet New Jersey's statutory directives to advance competitive markets, energy efficiency programs must be structured to allow for robust competitive market provider participation in the delivery of energy efficiency and peak demand reduction products and services.

BYOD Programs Should Be A Core Peak Reduction Program Offering

The Straw Proposal states that "during the initial years, in metrics and in QPI results, demand savings will reflect only 'passive' peak demand savings resulting from efficiency programs and will not include active demand management/demand response savings. The inclusion of active demand savings in the metrics may be considered in future program years."[5] Active demand management programs offer significant opportunity for peak demand reduction and should be adopted as a core program offering. Under the Straw Proposal it appears that utilities would not be required to file active demand reduction programs until year 5 of program implementation.[6] Moreover, while the Straw Proposal acknowledges that there are differences between utility territories, leveraging customer-sited battery storage assets as peak demand reduction pathway is fundamentally similar across utility territories and warrant inclusion as part of the core utility program offerings.

As discussed further below, policymakers and utilities in neighboring jurisdictions, have begun implementing "Bring Your Own Device" (BYOD) programs with customer-sited battery storage for peak load reduction. A BYOD program leverages customer or third party owned (i.e., non-utility owned) customer-sited battery storage assets with third party aggregators (sometimes referred to as a "DER Aggregator") to provide peak load reduction and cost savings to program participants, ratepayers and utilities. The program structure can be simple and easy to understand and participating customers are paid for their performance during peak demand events.

Participation in a BYOD program is simple and straightforward. Program participants are enrolled by a non-utility DER developer and generally participate through a DER Aggregator. The customer would install an approved battery system of their choice compatible with their utility's

[5] Straw Proposal at 34.

[6] Straw Proposal at 73 (stating "[t]o comply with the CEA and to ensure that programs include all customer segments, capture and adopt new technology and/or service models as available, maximize peak demand reduction, and manage transmission upgrades, utilities should file pilot or full peak demand reduction programs by year 5").

system. Once the battery is installed, the customer would follow enrollment instructions individually or through their selected DER Aggregator. The enrollment would include a verification process that confirms the device can be utilized in the program platform. Once integration to the platform is confirmed, the utility would send notice of anticipated peak demand events to the DER Aggregator (or directly to the customer for customers not participating through an aggregator), which would then communicate with the customer and the customer's device and dispatch the device at the appropriate time and duration in response to the event. The participating customer or the customer's designated DER Aggregator would receive participation payments in exchange for dispatching the device during the event. For customers that enroll with a DER Aggregator, the participation payment would remit as a direct payment to the DER Aggregator who would manage the customers' batteries and the customer value proposition. For customers not participating through a DER Aggregator, the participation payment could be provided as a direct payment or a bill credit.

The DER Aggregator plays an important role interfacing between the utility and the customer. The DER Aggregator is especially important partner for residential and small commercial customer enrollees that, unlike large commercial and industrial customers are not as likely to have sophisticated energy management capabilities. The DER Aggregator also takes on responsibility for delivering the load reduction it commits to deliver from its portfolio of enrolled customers. Compensation is often based on "pay for performance" model such as a $/kw month payment for load reduction and/or injections by the participating batteries. Load reduction and injection can be calibrated starting with a base value applicable across a utility service territory with the potential for more granular, additional values layered on for performance in response to location-specific needs and constraint, such as a non-wires alternative ("NWA") project. BYOD programs offer a straightforward way to promote the competitive energy storage market and unlock the enormous potential of customer-sited energy storage to deliver peak reduction benefits, while balancing the risks and benefits to participants and non-participants.

BYOD programs support the development of a competitive and self-sustaining storage market. These programs encourage firms to enter new markets and make diverse financing options available to customers to make more customer adoption options available regardless of income classes. This supports greater customer choice, stimulates innovation in developing new use-cases for storage assets, and fosters the creation of sustainable and scalable behind-the-meter ("BTM") storage market in New Jersey while delivering valuable peak demand reduction benefits for all New Jersey ratepayers. The upfront or performance payments can substantially reduce the cost of batteries, further expanding access to clean and resilient power further down the income spectrum. Given New Jersey's firm commitment to equity and energy efficiency benefits for low-income customers, including a BYOD program as a required core offering of utilities Peak Reduction programs could play a substantial role in achieving peak reduction goals, and offers an additional pathway to enhance the competitive storage market and expand access to storage to low- and moderate-income residents.

BYOD programs also reduce ratepayer risk in achieving peak demand reduction goals due to the non-utility ownership structure of the behind the meter ("BTM") assets that participate in BYOD programs. Shifting capital investment and customer management responsibilities and risk from the utility (and thereby away from ratepayers) to competitive storage providers and DER

Aggregators insulates ratepayers from risks of utility underperformance because ratepayer dollars are not used to purchase the assets. Moreover, participating customers and DER Aggregators are only compensated when the batteries enrolled in the program actually perform.

Examples of utility and statewide residential BYOD programs are below. These examples provide a helpful roadmap for designing a BYOD program in New Jersey to deliver peak demand reduction benefits.

Green Mountain Power's Residential Storage Program[7]

The Green Mountain Power (GMP) BYOD program allows residential customers who adopt energy storage to provide peak demand reduction benefits to GMP for monthly peak shaving. Customers can select upfront compensation ($850 per kW pledged for performance) or ongoing payments. The program is open to customers across the GMP service territory and enables GMP to access battery capacity and bring a battery offering to its customers in partnership with solar/storage providers, without taking on the responsibility to manage the deployment of the resources. Solar/storage providers are able to customize offers to suit customer preferences and can enroll customers as part of an aggregation.

PSE&G Long Island's Behind-the-Meter Energy Storage with Solar Program[8]

Through its Utility 2.0 Long Range Plan, PSEG Long Island enhanced its dynamic load management programs with the introduction of a Standard Offer $/kW-year payment for customers with battery storage to deliver qualified capacity savings. PSE&G Long Island's program offers a payment to third party aggregators, selected via a qualification process that allows for the remote control of customers' energy storage systems to reduce load during called events. PSE&G Long Island compensates the third-party aggregator on a pay-for-performance basis for load reduction, with the expectation that customers will also receive a rebate or cost savings, either through a portion of the rebate from PSE&G Long Island transferred to them, and/or an upfront discount from the aggregator for the battery installation. This structure provides space for the storage market to innovate and implement solutions to achieve maximum program participation.

While this BYOD is system-wide, it is also innovative in that it incorporates local adders for transmission and distribution congestion and further allows the ability to stack with Non-Wire Alternatives. The BYOD structure is an ideal method to address distribution level issues by engaging an enrolled fleet on the grid and also addressing localized issues as those needs arise.

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[7] *See* GMP Bring Your Own Device "BYOD" Access & Service Agreement, *available at* https://greenmountainpower.com/wp-content/uploads/2019/03/BYOD-Terms-and-Conditions-3-11-19.pdf.

[8] Long Island Power Authority, in re: Consideration of Tariff Changes to Enable Energy Storage Systems to Participate in Dynamic Load Management (May 22, 2019) (approving PSE&G Long Island's proposed revisions to its dynamic load management programs to allow net metering and certain other customers enroll and participate with their battery storage device) *available at* https://www.lipower.org/wp-content/uploads/2019/05/3.-Approval-Tariff-Changes-for-Energy-Storage-Systems-to-participate-in-DLM.pdf.

The program includes co-marketing between developers and PSE&G Long Island to encourage battery sales to complement solar installations. PSE&G Long Island partners with equipment manufacturers and contractors on collateral material to support and drive participation, including targeted direct mail outreach to energy storage prospects, driving interest and contractor leads. These co-marketing efforts, ensure consistency between utility and developer communication with customers, reduce customer acquisition costs and can lead to lower prices for consumers.

Massachusetts's Statewide BYOD Program[9]

The Massachusetts Department of Public Utilities incorporated energy storage into the state's 2019-2021 energy efficiency plan in approving Program Administrators' proposal to implement an active demand reduction program. That program includes demonstration offerings to test the daily dispatch of storage in order to support the potential launch of wide-scale, statewide daily dispatch offerings for residential and/or C&I customers. The new program follows an evolution in thinking away from annual kWh reductions toward ways to reduce system peaks, given that peak hours represent the costliest and dirtiest generation periods on the grid. The Massachusetts program recognizes the benefits of BYOD programs given that they are uniquely structured to help lower peak demand during these critical hours and provide net benefits to ratepayers. Indeed, in March 2020 the Program Administrators submitted compliance filings detailing the results of the daily dispatch demonstration offerings. The results not only show net positive benefits, but given the enormous promise for customer-sited energy storage to deliver demand reduction benefits, the Program Administrators determined there is sufficient evidence to support the wide-scale deployment of their daily dispatch pay-for-performance offering and requested approval .[10]

The experience in other states demonstrates that BYOD programs can offer savings to New Jersey ratepayers and strongly supports adoption of BYOD programs for peak demand reduction by New Jersey's electric utilities. Sunrun strongly encourages Staff to adopt a BYOD program as a core element of peak demand reduction programs that all electric utilities in New Jersey must offer. A BYOD pilot offered started in the first second year of program implementation would provide the basis to evaluate this peak demand reduction strategy. Assuming the pilot demonstrates net benefits, the pilot could then be scaled to a full core peak demand reduction program required to be offered by all electric utilities in New Jersey.

Additional Observations

The Straw Proposal also highlights the importance of effective marketing and education of energy efficiency and peak demand management programs to increase program participation, and

[9] Mass. Dept. of Pub. Utils, Docket Nos. 18-110 through 18-119, *Order Approving Massachusetts Joint Statewide Electric and Gas Three-Year Energy Efficiency Plan 2019–2021* at 41 (Jan. 29, 2019).

[10] *See* Mass. Dept. of Pub. Utils, Docket No. 20-36, Petition for Approval of Compliance Filing Regarding Implementation of Daily Dispatch Pay-for-Performance Offering (Mar. 16, 2020); *see also id.*, Attachment A, *2019 Residential Energy Storage Demand Response Demonstration Evaluation* (detailing analyses and findings of the demonstrations and providing recommendations for adoption in future iterations).

ultimately energy savings.[11] Sunrun agrees that coordinated marketing approach will foster consistent messaging and provide cost savings, and afford a single, unified platform to reduce market barriers.[12] However, Sunrun urges Staff to consider closely what appears to be a recommendation to limit co-marketing efforts between the utility and the state program administrator.[13] Program administrator leadership and participation in customer education and marketing is essential to successful customer enrollment, however, when program administrators work in conjunction with the competitive service providers selling and installing the products - including DER developers - to educate customers about new program opportunities, customer knowledge and interest in participation increases. Consistent with the Straw Proposal's recommendation for establishing statewide standards for contractors across service territories, coordinating trade ally support, and standardizing contractor training materials, Sunrun urges Staff to incorporate co-marketing opportunities – or at the very least, coordinate marketing outreach – with approved contractors for applicable energy efficiency and peak demand reduction products. This co-marketing approach is especially important for peak demand products like battery storage that rely upon customer adoption of a particular technology, such as battery storage, acquired from competitive market providers.[14]

Conclusion

Sunrun appreciates the opportunity to provide these comments and respectfully requests Staff adopt the recommendations contained herein.

Respectfully submitted,

/s/ Nicole Sitaraman

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Sunrun Inc.
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[11] Straw Proposal at 27.

[12] Straw Proposal at 27.

[13] Straw Proposal at 27 (stating "[o]ne brand will also help alleviate customer confusion and provide advantages through government rates to state entities").

[14] *See e.g.,* Mass. Dept. of Pub. Utils, Docket No. 20-36, Petition for Approval of Compliance Filing Regarding Implementation of Daily Dispatch Pay-for-Performance Offering, Attachment A, 2019 Residential Energy Storage Demand Response Demonstration Evaluation at p. 5 (recommending that in future iterations of the program that utility marketing materials be developed to "ensure customers are aware [the utility] knows backup is important to the customer. Two manufacturers include the existence of a battery reserve in their marketing materials, and one offers the option, but [the utility] does not make this clear in the marketing materials. Create a consistent battery reserve level and publicize both the battery reserve and the restriction of events prior to storms. This will help alleviate customer concern about batteries being depleted when they are being relied upon to provide power in an emergency.").

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April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Attention: Energy Efficient Transition Team
Reference: Energy Efficient Transition- Full Straw Proposal

Dear Secretary Camacho-Welch:

At the conclusion of our organizations thorough review of the proposed program changes we wish to respectfully submit our comments and questions. The proposal, as we interpret may seriously affect our over 500 NJACCA Member Companies that employ over 8,000 people and their 32,000 New Jersey family members, and the 11,000 Licensed HVACR Contractors ability to deliver the EE programs. History indicates that the HVACR Industry participation is instrumental to ensure the success of many of the EE programs. Additionally, it is the robust contractor network that raises business and homeowner's awareness of the NJ BPU's EE program offerings.

After vigilant collaboration and conscientious deliberation, we have developed a list of comments some of which conclude with a question. Our comments we believe, if accepted would lead to a successful transition of the proposed plan. Depending on the replies to the questions we would appreciate the opportunity to submit further comments. NJACCA is fully aware, if the plan is adopted as is that a failed transition would be tremendously detrimental to the New Jersey's rate payer's health and safety as well as stymie State job growth viability as well as a long-term sustainability.

Please consider the following questions and accept the following suggestions which follow the Straw Proposal's sequence:

1) Program Goals: The plan document states" While maintaining statewide consistency of energy efficiency and peak demand reduction programs." In subsequent sections, however there are allowances for program flexibility, which we believe can and will cause grave conflict in delivering the intended EE results. If all the utilities core programs, incentives and financing options are not identical, in all market areas, it will be incredibly difficult to streamline, enforce and hold contractors accountable for the execution of multiple forms, filings and paperwork.

a) Question 1: How will the utilities that have not been running any EE programs now do what the utilities that have been running programs do in a consistent fashion, regardless of which utility administered program we are discussing. We are talking about size, resources, etc. The programs currently run state-wide have been run state-wide solely because of that reason, and that in the past it was impossible to be consistent.

2) Utility-Administered Core Programs: Our Membership and the HVACR are a vital key to the success of the proposal's following Core Programs:

a) Home Performance with ENERGY STAR.

b) WARMAdvantage.

c) COOLAdvantage.

d) Pay-for-Performance.

e) Direct Install.

f) SmartStart.

We cannot overemphasize that any lack of consistency in every aspect in any of the aforementioned programs, will diminish the HVACR Industry's participation, therefore having the unintentional consequence of not meeting this proposal's goals.

NJACCA knows that to ensure program success the following items must be consistent throughout all utility's territories for all of the core programs listed above:

a) Accessibility to all programs to all contractors in all territories.

b) Incentive offerings must be indistinguishable across utilities.

c) One program software platform for modeling, commitment of project funding and applications for the commitment of funds at completion.

d) Program paperwork: program's financing, incentive application as well as claiming these items at a project completion must be seamlessly identical throughout New Jersey's utilities.

e) Financing offering for core programs must be identical; the same rules for requirements for eligibility (e.g. bill payment history, credit score, dept to income ration, etc.) for all utilities. While it would be preferable that repayment is "on-bill", however if a lending institution is required, using a singular provider would provide the consistency the proposal seeks.

f) Timelines and uniformity of applications, payment timelines and methods are essential, so contractor participation is consistent in all utility territories.

g) Quality Assurance inspections for projects for overlapping electrical and gas supplied utilities must be provided by one of the two utilities, no duplicative inspections by multiple utilities.

h) Required credentials, (if any) to participate in a core programs, must be consistent across the state.

Because of the Straw Proposal goals, consistency, core program, then flexibility statements we must inquire if the BPU will:

a) Question 1: Will the BPU ensure all contractors will have equal access to all programs.

b) Question 2: Will the BPU ensure rate payer incentives and financing will be the same across all utilities?

c) Question 3: Will the BPU insist that each utility utilize the same software platform?

d) Question 4: Will the BPU require program paperwork, financing, incentive application as well as claiming these items at a project completion be seamlessly identical throughout New Jersey's utilities?

e) Question 5: For programs with a financing option, will the BPU require that payment timelines for project financing (if not on-bill) and rate payer incentive payment be the same across all utilities?

f) Question 6: How will the BPU ensure uniformity in applications, payment timelines and procedures?

g) Question 7: How will the BPU ensure that projects in overlapping gas/electric utility territories receive just one project QA inspection and ensure consistency?

h) Question 8: Would the BPU allow fuel conversions and if yes, how would they be managed?

3) Listed below are statements within the straw proposal, which raises concerns with the HVACR contractors that these statements will lead to inconsistency, and therefore confusion within the marketplace. Inconsistency and confusion that will impede a successful transition. After each statement we ask a question(s). We respectfully request answers to determine if we can throw our support behind the Straw Proposal.

a) Statement: "While the utilities will file their program proposals individually and will not be required to have joint administration...., it is critical that the program designs, including eligibility and evaluation requirements, ***are consistent*** across the state. ***Offering the same***

core programs across the state will streamline program offerings for specific market sectors, ensure effective marketing of the portfolio of programs available, encourage collaboration to develop and implement best practices across the state, and ease review of utility core program filings."

i) Question: How will the BPU ensure consistency and who will oversee the development and implementation of best practices?

b) Statement 2: "The core programs proposed in this document largely reflect the current program offerings across all market sectors in New Jersey. While the utilities should offer measures similar to those described below, **they are not required to propose** these exact core programs as they are currently designed and offered by NJCEP.

i) Question 1: When the document states "not required" does that mean they can vary or eliminate a current core program currently offered or that the utilities will be allowed to alter its current design?

ii) Question 2: Should the answer to "i" be yes, then for consistency purposes must all the utilities agree to a change prior to staff or BPU approval?

iii) Question 3: If answer to "ii" is no, would this not negatively impact the goal of remaining consistent across all utilities and programs?

c) Statement 3: "Following the filing of consistent programs, utilities should continue to collaborate in order to implement programs in a **similar** manner and should develop supportive processes, such as consistent procurement processes, procedures, requirements, and forms. This will be especially important in locations where gas and electric service territories overlap."

i) Question: Is there a plan in place to ensure the collaboration between utilities happens? Is this an opportunity for NJ ACCA to assist?

d) Statement 4: "The Board identifies the programs that must be delivered consistently statewide by all utilities, and the individual utilities each hire implementation contractors to implement the programs."

i) Question: How will the board ensure equity across all utilities and through implementation?

e) Statement 5: "Staff believes that, while all of these models may work for various programs, the key format for New Jersey is that the utilities collaborate, with **input from BPU and stakeholders**, on program design, requirements, etc. and deliver consistent core programs on a statewide basis."

i) Question: Will the contracting community also participate, and will the outcome of this collaboration result in seamless consistency of programs across all utilities and will benefit the ratepayers, stakeholders and contractors equally?

f) Statement 6: "Stakeholders emphasized the need for programs to be nimble in responding to market shifts without undergoing a full regulatory proceeding. While **strong oversight of programs** must also be maintained, Staff recommends allowing utilities.....Utilities will be permitted to make minor adjustments to program design with Staff approval."

i) Question: To ensure consistency, will these nimble adjustments be implemented by all utilities at the same time?

g) Statement 6: "Budget Shifts within a Sector: Sectors are any grouping of programs that focus on similar target markets, including but not limited to: residential, commercial and industrial, multifamily, low income, and small business. Utilities will be able to **shift budgets up to 10%** of the individual program budget between or among programs in the same sector with Staff notification; this applies only to an individual utility's budget in situations where the shift would not result in a change to the utility's overall budget. For **budget shifts ranging from 10%-20%** between or among programs within a sector **Staff approval will be required for proposed budget shifts exceeding 20%.**"

i) Question: Could it be possible for one utility to adjust or exhaust a core program's budget that would result in a ratepayer in an overlapping utility territory to be shut out of a core statewide program offering?

h) Statement 7: "Incentive Adjustments: Utilities will be able to **adjust energy efficiency** and peak demand management measure **incentives up to 20%** of approved levels with Staff notification. Adjustments ranging from **20%-40% will require Staff approval.** Any adjustments exceeding **40% of approved levels will require full Board approval.**"

i) Question: Does this statement suggest that once there is an original agreed upon consistent statewide incentive that a utility could vary its incentive up to 20%, or even higher, therefore shredding consistency. If yes, this would assuredly lead to market confusion and impede the HVACR community from attaining marketing and management consistency. This confusion will be especially evident in overlapping utility territories. To prevent these issues,

what controls does the BPU intend to deploy to ensure no confusion and maintain consistency.

We would like to thank you for taking the time to read our comments and look forward to the answers to our questions. We are available to discuss our comments and questions further with all interested parties.

Sincerely,

Bernadette Eckardt

Bernadette Eckardt, President
T.J. Eckardt Associates, Inc.

From: brian.s@twinlogixx.com
To: energyefficiency
Subject: [EXTERNAL] Small Business Owner Email Comment to New Jersey Board of Public Utilities
Date: Monday, April 13, 2020 3:22:20 PM

Small Business Owner Email Comment to New Jersey Board of Public Utilities:

As a New Jersey small business owner of TwinLogixx, LLC I am writing to urge the BPU to invest in energy efficiency. We need to create a framework where investments in energy efficiency can really succeed, which is lacking in the current Straw Proposal.

TwinLogixx and I am concerned that the Straw Proposal for New Jersey's energy efficiency transition plan does not include a long enough period of time to finance these investments in energy efficiency. If we do not lengthen this timeline, it'll be harder to ensure a smooth transition. This means small businesses like mine could end up feeling intense economic strain.

I also want to strongly encourage the BPU to include decoupling in the Straw Proposal. This would allow our utilities to fully invest in energy efficiency programs and create jobs in low-income and underserved communities instead of just affluent areas. Full decoupling would also encourage New Jersey residents cut down on their energy usage and save money; that's good for our state and our environment.

Sincerely,

Brian Sprinitis
Partner
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Suite 2000
Bridgewater, NJ 08807
https://urldefense.com/v3/__http://www.twinlogixx.com__;!!J30X0ZrnC1oQtbA!cbIY4ro42sbFm4cDysszS_twuC0V4uzZoucAtuqiYBuUjqlAfpPAwlFRvPgHQvHxS6RzTmOyrA$

April 13, 2020

Aida Camacho-Welch, Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: Energy Efficiency Transition - Full Straw Proposal

Uplight[1] appreciates the opportunity to share our perspective and expertise on the Energy Efficiency Transition Full Straw Proposal.

Overall, we commend the BPU and its staff for undergoing this stakeholder process with the intent to uphold the State's commitment to energy efficiency (EE) as a tool for decarbonization, job creation, system resilience, social equity, and an improved consumer experience. The alignment to these ideals has been exemplified in the commitment from numerous organizations to actively participate over the past year. Despite the progress so far, key improvements still remain to realize this vision during implementation of the energy efficiency transition:

1. **Marketplaces must remain utility administered in New Jersey**
2. **Cost recovery must drive significant investment in EE**
3. **QPIs should champion State policy goals, such as decarbonization and consumer experience**

With these improvements, New Jersey utilities and the State will be able to effectively implement programs at the level required to meet the goals and strategy laid out in the Energy Master Plan and Clean Energy Act while providing the most value to ratepayers. Without these improvements, we see the distinct possibility that these programs will meet the demands of yesterday rather than those of the future.

[1] Uplight is a nationwide software-as-a-service ("SaaS") company that helps utilities engage their residential and business customers to realize a decarbonized energy future that is efficient, equitable, and resilient. Our 300 employees serve over 85 energy provider clients, including PSE&G, Exelon, First Energy, Orange & Rockland, New Jersey Natural Gas, and South Jersey Gas, to provide connected customer journeys to over 100 million energy customers in North America and Europe. As a certified B-Corp, we share the New Jersey Board of Public Utility's commitment to providing consumers bill savings while reducing energy and associated greenhouse gas emissions to build a more sustainable future.

1. Marketplaces must remain utility administered in New Jersey

> *"The [Clean Energy Act (CEA)] emphasizes that the State's energy goals should be achieved in a way that benefits all residents in a cost-effective manner. The CEA also envisions utilities playing a more central role in the delivery of EE programs, as has been successful in other states."*
>
> *Full Straw Proposal, p. 9*

Uplight has implemented over 30 marketplaces with both utilities and states across the country. In New Jersey, we have had very successful programs with PSE&G and South Jersey Gas since 2018, and these marketplaces have achieved world-class Net Promoter Scores.[2] Our marketplaces win head-to-head against competitors on customer satisfaction, as showcased in a case study by the Smart Energy Consumer Collaborative.

Our recommendation to continue utility administered marketplaces in New Jersey is predominantly based on the following four factors:

a. **Marketplaces go beyond selling hardware:** Marketplaces are moving beyond retail products to becoming an engagement portal for services, rates options, and demand response enrollment.
b. **Performance of NJ utility administered marketplaces:** 70% of NJ households already have access to highly successful, utility administered online marketplaces through pilot programs at PSE&G and SJG.
c. **Implementation requires significant investment & expertise:** Implementation of marketplaces requires large investments in IT systems, data security, fraud management, fulfillment, and customer service.
d. **Utility administered marketplaces can be designed for brand and equity goals:** Co-branding and cross-linkage are straightforward implementation tasks. Ensuring equity is more complex but can be achieved with the existing regulatory processes, and will be incentivized/penalized through the QPIs.

Marketplaces go beyond selling hardware

The most effective program designs start with the end user in mind. Customers are not interested in what offers exist across the state, but what offers are available to them, beyond rebate amounts to include other programs and offers they can participate in.

[2] Both marketplaces earn Net Promoter Scores exceeding 70, which is the minimum to be "world-class."

Marketplaces can provide a one-stop-shop for customers to engage their utility: purchasing products and services directly and signing up for other programs. Customers can purchase enabling technologies, explore HVAC programs, sign up for home services, or even sign up for electronic billing based on what is offered in their utility's service territory. When additional programs are fully implemented in New Jersey, customers could also buy electric vehicle chargers or gather information on solar or green tariff options - directly from the marketplace, creating a customer experience that is both engaging and cost-effective.

Uplight delivers this type of experience today through our demand response pre-enrollment (DRPE) solution, tying marketplace smart thermostat purchase to utility demand response programs. Unconnected smart thermostat purchases and demand response programs (known as Bring Your Own Device or BYOD) have 10-20% program conversion rates and $35-50 cost per customer. Marketplace/DRPE integration has demonstrated 70-80% conversion rates and $7-9 cost per customer.[3]

Performance of NJ utility administered marketplaces

New Jersey is well-poised to realize these integrations with its existing utility marketplaces. Over 70% of New Jerseyans currently can access one, which has proven successful in increasing the energy saving devices in homes and businesses across the state. PSE&G met their 2-year program goal in 4 months by selling over 36,000 smart thermostats—many of them with bundled installation services—while achieving world-class customer satisfaction.[4] This success has already been recognized by the BPU, with two extensions of the pilot program agreed to in stipulation agreements negotiated over the past nine months.

Implementation requires significant investment & expertise

The list of data integration requirements for a successful marketplace is vast. It includes account single-sign on, qualification verification, and fraud management. Data integration also enables access to real-time customer information for utility customer service representatives so that when a customer calls—whether they have a question about a device purchase, a higher than normal bill, or program enrollment—the customer's full profile and activity are available. These linkages have already been figured out at utility marketplaces across New Jersey, and would be hard to duplicate in a state-wide marketplace. Real-time data transfer to State systems to meet requirements like SOC2 alone are very difficult to implement.

[3] Data are gathered from Uplight's experience with utilities in Illinois, Indiana, Michigan, and New York.
[4] PSE&G's marketplace earns a Net Promoter Score of 74 (70 is world-class customer satisfaction).

Utility administered marketplaces can be designed for brand and equity goals

> *Guided by the Clean Energy Act, the Energy Master Plan, and various Executive Orders, including EO 23, as well as the principles established for the development of the energy efficiency transition, Staff seeks to ensure equitable access to energy efficiency and peak demand reduction products and programs for all residents in the state.*
>
> *Full Straw Proposal, p. 29*

We wholeheartedly agree EE should be for all New Jersey residents - especially now as more of the population finds themselves financially vulnerable due to the ongoing crisis. We also understand the interest in promoting the State's role in energy efficiency leadership.

Uplight provides solutions that not only help utilities provide equitable *access* to programs, but also equitable *engagement* for income-qualified customers by reducing cost barriers, easing enrollment, and providing energy management tools.[5] Utilities can leverage their customer data to integrate special offers on smart thermostats to low and moderate income (LMI) households through the marketplace, where income qualification is verified through their account. Utilities also tailor recommendations and streamline enrollment to make it easier for customers to access utility resources.

We recommend setting requirements in the filing approval process and for QPIs to include incentives for engaging income-qualified customers, in line with what is included in the full Straw Proposal for other utility administered programs.

Cross-promoting State and utility brands through different digital platforms is straightforward. Uplight has done this several times before, and the current utility administered marketplaces can easily adapt to support this need.

[5] We provide additional details across program types on our website.

2. Cost recovery must drive significant investment in EE

> *Energy efficiency will play a critical role in meeting our clean energy targets. The CEA, recognizing this key role, sets forward requirements to ensure that utilities are incentivized to meet the ambitious targets. Staff believes that, while required by statute, energy efficiency programs will not ultimately be successful if the proposed mechanism negatively impacts a utility's economic bottom-line or if such programs are considered a less attractive investment than traditional infrastructure*
>
> *Full Straw Proposal, p. 10*

In order to ensure energy efficiency is not a "less attractive investment than traditional infrastructure," the cost recovery mechanism proposed in the full Straw Proposal must be changed to strongly indicate to utilities that they should significantly and strategically invest in EE over traditional projects ("pipes-and-wires"). The goals of the Clean Energy Act and Energy Master Plan will not be achieved through step-change improvements. For utilities to significantly change their investment behavior, the cost recovery mechanism must signal sweeping change. Uplight has contributed to and supports the comments of our trade association, EEA-NJ, and these recommendations on the cost recovery mechanism include:

a. **Removal of pre-penalty from ROE:** Starting off with a 100 basis points reduction not only is unprecedented across the country, but signals to utilities that EE can be considered less of a priority to traditional infrastructure.
b. **Full symmetrical decoupling over lost revenue adjustment mechanism:** Traditionally, utilities are incentivized to increase load to increase profits. Decoupling combined with performance incentives shifts focus from increasing energy usage to achieving the goals as laid out by incentives, such as decarbonization, equitable access, resilient systems, etc.
c. **Amortization over full measure life:** A seven-year amortization period will unnecessarily increase consumer bills for measures that have a longer life; expected life will ensure benefits to customers are aligned with cost.

Removal of pre-penalty from base rate case return on equity

Utilities require a strong signal from the BPU that EE investment is foundational to achieving the ambitious clean energy goals laid out by the State. Energy efficiency investments, although they have a high upside, also include risk as measures can perform differently than originally expected. Due to this inherent risk, utilities will invest in EE minimally and continue to invest in traditional infrastructure to avoid the pre-penalty currently proposed.

The examples cited by Staff (MD and DC) as precedence for the 100 basis points reduction in ROE in the full Straw Proposal are not supported by the cost recovery mechanisms seen in these jurisdictions as neither implements an automatic pre-penalty. More commonly seen as successful is what is recommended by many stakeholders: the base rate case ROE without basis points reduction. Further, the CEA recommends basis points reduction only with significant underperformance of programs - not automatically imposed.

3. QPIs should champion State policy goals, such as decarbonization and consumer experience

> *In the short term, targets should encourage program administrators to move towards implementing programs (in lieu of long negotiations over targets and terms); in the medium term, targets should meet or exceed CEA minimum mandates for savings; in the long term, targets should capture all cost-effective energy efficiency.*
>
> *Full Straw Proposal, p. 30*

We appreciate the BPU and its Staff taking a holistic view of performance metrics, and especially applaud the inclusion of non-energy benefits such as environmental benefits (e.g. carbon savings) and customer satisfaction (e.g. customer experience [CX]). As these metrics are further developed (by all stakeholders - including the businesses involved), we recommend a continued focus on tracking progress towards these goals.

In particular, traditional EM&V has neglected to incorporate CX as a primary evaluation metric, which dismisses the inherent value of positive consumer experience and excludes the synergies that CX can provide in terms of reduced participant acquisition costs. In the interim, standard customer satisfaction scores like the J.D. Power Customer Satisfaction Index or Net Promoter Score (NPS) can be used as CX metrics. These metrics may not be sufficient for all aspects of CX, and so we offer these with the expectation that something more robust may be created with more time for development.

Additional Thoughts

We recognize the BPU and Governor's office has invested in reforming the EE program administration and business model to implement the Clean Energy Act, and we are grateful for the opportunity to share our insights through the open stakeholder process. We do agree that the State is on the path to greatly increase EE investment and improve EE program impact, but believe it is critical to get the issues of cost recovery and marketplace administration optimized now. In particular,

the development of a co-managed state-wide marketplace to replace the existing ones New Jerseyans have access to today would require a duplication of effort and investment, and limit future optionality for no benefit. It also represents a significant claw-back from the utilities who have proactively invested to do the right thing for their customers, and sends the wrong signal to the EE and utility communities.

We provide these comments on the energy efficiency transition in the context of the entire transformation of New Jersey's energy industry. Well-designed and executed EE regulation will not only help achieve the direct savings goals from the CEA, but also will allow for synergies for future implementation of the Energy Master Plan—including energy efficiency integration with distributed solar, with data from grid modernization and advanced metering infrastructure (AMI), and with grid flexibility for high levels of transportation electrification (EVs) and renewables (solar and offshore wind).

We look forward to continuing these conversations as part of the BPU's continued efforts to develop a sustainable and cost-effective energy system for the people and businesses of New Jersey.

Sincerely,

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Empowering Communities.
Changing Lives.

April 13, 2020

President Fiordaliso
Attention: Aida Camacho
Office of the Secretary of the Board
Board of Public Utilities 44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Energy Efficiency Transition Straw Proposal
Docket NO. QO19010040

Dear President Fiordaliso:

When I was asked to serve on the Energy Efficiency Advisory Group, I was cautiously optimistic that I could impact positive change for the low-income communities I serve. Historically there has been the tendency to leave the needs of low-income communities out when discussing Clean Energy. Over the last several months. I have been diligent in my participation and attending meetings on various topics as requested by the BPU staff. It is with that in mind that I provide these comments in response to the Board of Public Utilities' (BPU) Energy Efficiency Straw (EESP) Proposal.

I was encouraged that Gov. Phil Murphy's Energy Master Plan had an energy efficiency component and specifically mandated a specific attention on low income communities. I also recognized that for the governor to maximize the potential of energy efficiency to reduce energy demand, lower energy bills for vulnerable customers, and spread the cleaner energy— and its economic benefits — to all New Jerseyans, it is critical that BPU get the rules right. We should not create bill savings for low income residents with one hand, while taking that savings away from them with the other. Being sensitive to customer bills at this time is more important than ever.

In these challenging times, I cannot help but think about the impact of COVID-19 on those who already struggle to make ends meet. Those who had challenges paying their utilities bills will struggle further as those bills will likely increase beyond their means. This Pandemic shines a light on the fact that we must work to

reduce energy consumption in low-income households so that there are sustained savings for those who need them most.

As drafted, the EESP does seem to maximize the potential for those that are already feeling the burden of the pandemic. The Board has an opportunity to shape New Jersey's commitment to these communities by instituting mechanisms, rate structures that would motivate utilities to fully support New Jersey's energy efficiency goals and address some the economic and social inequities in these already burdened communities.

The Proposal should be adjusted to fully advance ratepayer interests by making investments in energy efficiency the preferred investment of utilities so that customer savings are maximized. By adopting a 15-year amortization, we can reduce the bill shock that the EESP proposed seven-year amortization would cause. In the same manner we must streamline how energy efficiency programs are delivered to low income residents; utilities, and not the BPU, are best positioned to do this in a cost-effective way.

Utilities have a directive to reduce energy demand under the state's Clean Energy Act, so it would be in New Jersey's best interest to have them play a significant role in developing and implementing energy efficiency programs to achieve maximum effectiveness and give all of their customers, including low- and moderate-income residents, the greatest opportunity to participate.

We have to level the playing field by ensuring that any large-scale energy efficiency effort in New Jersey includes serious, effective and wide-ranging programs to help low- and moderate-income households participate in the state's clean energy transformation. This includes homeowners, and renters, who include the great majority of low-income households, all of whom would benefit from cost savings and energy savings and from the comfort, convenience and safety improvements that energy-efficient upgrades provide.

Almost 33% of Americans, and many more people of color and low-income residents, face energy insecurity, according to the Department of Energy. Researchers at Columbia University found low-income households spend as much as 10% of their income on energy, compared to affluent families who spend about 3% of their income. Energy efficiency measures, like more efficient appliances, new heating or cooling systems or additional insulation can make meaningful dents in energy spending. But the poorer you are, the less money you have to take advantage of these measures that require an upfront investment. The governor's

plan should include ways for these customers to participate in these energy- and cost-saving activities.

The EESP must do more to ensure that economically challenged communities benefit from the economic development and jobs that large-scale investment in energy efficiency will create. Energy efficiency jobs are local jobs that are hard to outsource or replace with automation. This is a large and growing industry, and it could provide a much-needed boost to local workers. Especially in light of the current economic environment due to COVID-19. The EESP should facilitate the ability for utilities to create energy efficiency jobs, not make it more difficult.

A fundamental inequality exists when it comes to the cost of being an American energy consumer. People who can least afford the benefits of our energy system pay a disproportionate share of its costs — both financially and in terms of their higher exposure to pollution from power generation and higher rates of pollution-related illnesses, such as asthma. Energy efficiency is a strategy that not only reduces energy use and the pollution it creates, but can provide an economic boost through lower energy bills and better jobs.

I along with representatives from the NAACP, NJ Black Issues Convention, The Institute for Social Justice, Salvation and Social Justice, The African American and Hispanic Chamber of Commerce, Latino Action Network, The Coalition of Latino Pastors and Ministers as well as the National Action Network have been working closely to monitor the execution of the governor's Energy Master Plan. Our voices must be heard to ensure that new jobs and economic development from clean energy benefit low- income communities.

Respectfully submitted,

Vivian Cox Fraser

Vivian Cox Fraser
President & CEO
Urban League of Essex County