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BOARD OF PUBLIC UTILITIES  
MAIL ROOM  
STEFANIE A. BRAND  
Director

KIM GUADAGNO  
Lt. Governor

October 13, 2016

**VIA HAND DELIVERY AND ELECTRONIC MAIL**

Irene Kim Asbury, Secretary  
State of New Jersey, Board of Public Utilities  
44 South Clinton Avenue, 10<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: I/M/O the Board's E-Filing Program  
BPU Docket No. AX16020100**

Dear Secretary Asbury:

Please accept for filing an original and ten hard copies of the Division of Rate Counsel's ("Rate Counsel") comments in the above-referenced matter. Please date stamp the additional copy as "filed" and return it in the enclosed, self-addressed, stamped envelope. Thank you for your consideration and attention to this matter.

At its July 29, 2016 Agenda Meeting, the Board approved waivers of certain regulations in order to facilitate the introduction of electronic filing.<sup>1</sup> Specifically, the Board waived N.J.A.C. 14:4-2(a)<sup>2</sup> and N.J.A.C. 14:17-4.2(a) requiring the submission of an original and ten copies of each pleading if a party files electronically, and N.J.A.C. 14:1-1.6(c) and N.J.A.C. 14:17-1.6(d) prohibiting electronic documents from being entered into the record in a formal proceeding. The Order also noted that full implementation of e-filing would require a complete

<sup>1</sup> I/M/O the Board's E-Filing Program, Docket No. AX16020100, Board Order dated 7/29/16.

<sup>2</sup> It appears the actual cite should be N.J.A.C. 14:1-4.2(a).

*Case mgmt  
J. Neetsman  
DAC*

review of the Board's Rules of Practice, N.J.A.C. 14:1 et seq.. The Order directed Board Staff to convene a stakeholder process to consider these necessary changes.

On September 14, 2016, the Board held a stakeholder meeting. The Board representatives received public input and answered several questions. Consistent with the public notice of the stakeholder meeting, parties were invited to submit written comments. Accordingly, Rate Counsel submits the following suggestions and concerns regarding the Board's proposed e-filing program.

1. The electronic copy should be considered the filed copy and any subsequent changes to the e-filed document must be filed as an amendment/supplement to the initial filing. Any future rulemaking or Board Order should include a requirement that any petition filed by electronic filing must be served on the Board and the Division of Rate Counsel within two days of the electronic filing.
2. Any future rulemaking or Board Order that expands e-filing should allow e-filing for responsive documents such as testimony, comments, and briefs. Likewise, all parties in the proceeding should be allowed to participate in e-filing, rather than only regulated utilities. Particularly for cases that have been retained by the Board, it makes little sense to limit e-filing to only regulated entities.
3. If e-filing is expanded to include documents such as testimony, comments, and briefs, the Board's rules should include a time deadline for electronic filing on the due date. Rate Counsel suggests that these documents must be filed by 5 p.m. on the day they are due. If a party tries to file a document beyond the time deadline, a notification should be sent immediately to the filing party that the document was rejected because it is filed out of time.

4. At the stakeholder meeting, there was extensive discussion about the treatment of confidential documents when parties begin e-filing. The Board should continue to look into this issue. During the stakeholder meeting, Board representatives explained that the e-filing system will not only be a filing system, but also a repository of filings that can be viewed by parties to a particular case. Rate Counsel is particularly concerned with situations where confidential information may have been provided to certain parties in a case, but not to all parties. The Board must develop procedures that ensure continued maintenance of confidentiality if and when a confidential document is electronically filed. Perhaps public documents could be made available to all, and confidential versions served only upon those parties permitted to view those materials.
5. All parties will realize maximum benefits from e-filing only if and when the Board eliminates the requirement to still serve three hard copies of responsive documents. Rate Counsel realizes that many issues will need to be addressed before this can be accomplished. Still, we suggest the Board's long-term goal should be maintaining the paper filing requirement only for affirmative documents such as Petitions and tariff filings.
6. Once a document is e-filed with the Board, a notice should be circulated to the parties advising them that a document was filed and they have access to download the document.

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Thank you for your attention to this matter. We look forward to continuing conversation as this issue progresses.

Respectfully submitted,

STEFANIE A. BRAND, ESQ.

Director, Rate Counsel

By: 

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Assistant Deputy Rate Counsel

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