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**via** electronic mail [rule.comments@bpu.nj.gov](mailto:rule.comments@bpu.nj.gov) and regular mail  
Irene Kim Asbury, Secretary  
New Jersey Board of Public Utilities  
ATTN: BPU Docket # AX1750469  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314, P.O. Box 350  
Trenton, New Jersey 08625-0350

Re: Infrastructure Investment Program Rule Proposal *AX17050469*  
Proposal Number PRN 2017-164, BPU Docket # AX1750469

Dear Secretary Asbury,

The Eastern Environmental Law Center hereby submits comments on this Rule Proposal on behalf of the Environmental Defense Fund (“EDF”).

EDF is a national nonprofit membership organization that links science, economics, and law to create innovative, equitable, and cost-effective solutions to society’s most urgent environmental problems. EDF has more than 365,000 dues-paying members nationwide, including more than eleven thousand in New Jersey. EDF has been involved in regulatory proceedings on infrastructure upgrades around the country. EDF has also intervened or participated in several BPU proceedings.

EDF supports adoption of a Rule to govern programs to upgrade New Jersey’s energy and electricity infrastructure (hereinafter referred to as “Infrastructure Investment Programs”). Without upgrades, New Jersey’s electrical utilities cannot fulfill their obligation to continue providing safe, adequate, proper, environmentally protective service. N.J.S.A. 48:2-23.

Through these comments, EDF outlines best practices to be incorporated into the Rule Proposal, which will work to ensure that Infrastructure Investment Programs maximize program benefits, properly manage risk, and protect the interests of ratepayers.

*Case mgmt*

**1. Expand the Scope of Eligible Projects to include projects that serve key goals of the Energy Master Plan, specifically including Advanced Metering Infrastructure.**

The Rule Proposal limits the Program to investments towards “safety, reliability, and/or resiliency.” Proposed N.J.A.C. 14:3-2A.1(a), 2A.2(a)(1). EDF agrees that infrastructure investments that support “safety, reliability and/or resiliency are important especially with the increased threats caused by climate change. But, EDF also believes, from its experience with infrastructure investments around the country, that infrastructure upgrades are necessary to address other needs as well: for example, “growing demand, aging infrastructure, environmental requirements, [and] an increasing call for the construction of renewable projects...”<sup>1</sup>

EDF recommends that BPU ground this Rule Proposal in the Energy Master Plan, and allow utilities to include projects that serve the key goals of the Energy Master Plan, including rewarding energy efficiency, reducing peak demand, driving down energy costs, integrating greater Distributed Energy Resources. December 2015 Energy Master Plan Update pp. 38, 39, 50.

Advanced Metering Infrastructure (“AMI”) is an investment that improves safety, reliability and resiliency, and is therefore, in EDF’s view, a project already eligible under the Rule Proposal.<sup>2</sup>

AMI also “has the potential to help satisfy the goals of the EMP”, and “to distribute additional data and the capabilities necessary to enable a host of benefits to the distribution system, thereby allowing the Company to streamline and modernize its operations, provide an enhanced customer experience, and benefit the environment.”<sup>3</sup>

A foundational technology like AMI clearly furthers the purpose of the Rule Proposal, “which is to encourage and support accelerated construction of certain utility plant and equipment needed for continued system safety, reliability, resiliency, and sustained economic growth in New Jersey.” Rule

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<sup>1</sup> Pre-Approval Commitments: When And Under What Conditions Should Regulators Commit Ratepayer Dollars to Utility-Proposed Capital Projects? National Regulatory Research Institute, Scott Hempling & Scott H. Strauss, November 2008 (“Hempling & Strauss”) p. 2

<sup>2</sup> AMI would also be eligible as an “electric distribution automation investment”. Proposed N.J.A.C. 14:3-2A.2(b)(4).

<sup>3</sup> Decision and Order, I/M/O Petition of Rockland Electric Company For Approval of an Advanced Metering Program; And For Other Relief, Docket # ER16060524.  
<http://www.bpu.state.nj.us/bpu/pdf/boardorders/2017/20170823/8-23-17-2F.pdf>

Proposal p. 2. EDF therefore recommends that BPU explicitly add AMI to the nonexclusive list of projects in proposed N.J.A.C. 14:3-2A.2(b).

EDF has seen the AMI moratorium language in the Rockland Electric Company (RECO) AMI order but we believe that including AMI in this rule provides a clear process for other utilities to move forward with infrastructure investments that could include AMI. The Board would still have discretion to disapprove any proposed plan.

## **2. Require More Specific Submissions On Environmental Impacts.**

Each project included in an Infrastructure Investment Program must address the utility's obligation to provide service "in a manner that tends to conserve energy resources and preserve the quality of the environment." N.J.A.C. 14:3-3.1(a). EDF recommends that BPU expand on this concept with specific performance metrics, regarding each project's environmental impact.

### Conclusion

In sum, EDF supports the development of regulations that would govern utility proposals for necessary Infrastructure Investment Programs. Without these upgrades, we "risk continued dependence on yesterday's technology." Hempling & Strauss, p. 26. In this comment, EDF suggests best practices to be incorporated into the Rule Proposal to maximize program benefits, manage risk, and prioritize ratepayer interests.

EDF appreciates the opportunity to provide these initial comments on BPU's Rule Proposal. We look forward to engaging more as the projects are proposed and specifics are determined to ensure environmental and customer value is maximized.

Sincerely yours,

/s/ Raghu Murthy

Raghu Murthy  
Eastern Environmental Law Center

c: **via** email  
Mary Barber  
Director, New Jersey Clean Energy  
Environmental Defense Fund

