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June 4, 2021

By 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: In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2022

In the Matter of the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for Fiscal Year 2022 Clean Energy Program

BPU Docket No. QO21040720 and Docket No. QO21040721

Dear Secretary Camacho-Welch:

Please accept for filing these comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in accordance with the Notice issued by the Board of Public Utilities ("Board") in this matter on May 18, 2021. In accordance with the Notice, these comments are being filed electronically with the Board's Secretary at board.secretary@bpu.nj.gov.

Please acknowledge receipt of these comments.

Thank you for our consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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Enclosure

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In the Matter of the Clean Energy Programs and Budgets for Fiscal Year 2022

In the Matter of the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for Fiscal Year 2022 Clean Energy Program

BPU Docket Nos. QO21040720 and QO21040721

Comments of the New Jersey Division of Rate Counsel

June 4, 2021

INTRODUCTION

The New Jersey Division of Rate Counsel ("Rate Counsel") appreciates the opportunity to comment on the Proposed NJCEP Fiscal Year 2022 ("FY22") Comprehensive Energy Efficiency & Renewable Energy Resource Analysis ("CRA") and the associated proposed FY22 budget and compliance filings publicly noticed on May 18, 2021.[1] Rate Counsel has reviewed the following materials posted for comment:

- The Division of Clean Energy's ("DCE's" or "Division's") "Comprehensive Energy Efficiency & Renewable Energy Resource Analysis" ("Draft CRA");
- FY22 Draft Total Budget, ("Draft Budget");
- TRC's FY22 compliance filing, "Energy Efficiency and Renewable Energy Program Plan Filing" ("TRC Compliance Filing");
- DCE's FY20 compliance filing, "Renewable Energy Programs, Energy Efficiency Programs, Distributed Energy Resources and NJCEP Administration Activities" ("DCE Compliance Filing");
- "The New Jersey Clean Energy Program FY 2022 Program Descriptions and Budgets Utility Residential Low Income Comfort Partners Program Proposed Program Description and Budget," ("Comfort Partners Compliance Filing"); and

[1] All referenced documents are available for download at the NJCEP Policy Updates website, https://www.njcleanenergy.com/main/njcep-policy-updates-request-comments/policy-updates-and-request-comments

- Charge Up New Jersey Fiscal Year 2022 Compliance Filing, ("Charge Up FY22").[2]

In the sections below, Rate Counsel will present some general comments concerning the above materials, followed by specific comment on the proposed programs and budgets.

GENERAL COMMENTS

The current proposal comes at the confluence of several trends and milestones that affect New Jersey's utility customers. As an overall context, the State is implementing an overhaul of its energy efficiency program delivery construct, both by setting ambitious new goals for gas and electric savings, and by revamping the structure of its energy efficiency program administration under the recently enacted Clean Energy Act ("CEA").[3] The CEA established new energy savings targets of at least 2% annually for electric distribution companies and at least 0.75% for gas distribution companies, while at the same time requiring that 21% of the electricity sold in the State to be from Class I renewable energy sources by 2020, 35% by 2025, and 50% by 2030. As part of this overhaul, the New Jersey Board of Public Utilities ("BPU" or "Board") and the DCE are ceding responsibility for some of its energy efficiency programs to the State's electric and gas public utilities, while at the same time the Board is taking on its own new responsibilities, including establishment of the Office of Clean Energy Equity, hiring a Statewide Evaluator (in process), and coordination of numerous working groups and stakeholder processes to support the implementation of the CEA. All of these changes add new complexity to the process of setting the New Jersey Clean Energy Program budget.

In addition to the above, Governor Murphy signed P.L. 2019, c. 362, also known as the "EV Law" on January 17, 2020, calling for 330,000 electric vehicles on the state's roads by

[2] Rate Counsel submitted separate comments on the Board Staff straw proposal for its 2022 EV budget in that proceeding, I/M/O the Fiscal Year 2022 Charge Up New Jersey Program, BPU Docket No. QO21040745.
[3] L. 2018, c. 17, on June 2, 2021.

2025, among other goals. The Governor's Executive Order Nos. 8 and 92 set state goals of 3,500 MW of offshore wind by 2030 and 7,500 MW by 2035, respectively. Executive Order No. 28, signed on May 23, 2018, directs the BPU to spearhead the committee to develop and deliver the new Energy Master Plan, tasked with (among other goals) developing a blueprint for the total conversion of the State's energy production profile to 100% clean energy by January 1, 2050, with specific proposals to be implemented over the next 10 years. This suite of new legislation, plans, and goals puts New Jersey on the path to becoming a leader in the clean energy economy.

These changes come at a cost to New Jersey's ratepayers at the same time that many of the State's residents have been hard hit by the global COVID-19 pandemic, which has been particularly devastating to low- and moderate-income families and historically overburdened communities. It has never been more important to ensure that our state- and utility-led energy efficiency programs address the needs of customers, improving the comfort and safety of their homes while helping them to reduce their energy bills. Similarly, it has never been more critical to scrutinize every ratepayer dollar spent in pursuit of the state's policy objectives, remembering that any increase in rates falls most heavily on low-income ratepayers.

Given this background, Rate Counsel has concerns about the level of transparency the DCE provided in support of the proposed $586 million Clean Energy Program budget. This proposed FY22 budget is nearly $46 million higher than the $540 million revised FY21 budget that was approved by the Board in its March 24, 2021 Order in its Docket Nos. QO20080538,[4] despite the transfer of significant responsibilities for EE programs from DCE to the electric and gas utilities. While the FY22 budget included reduced expenditures for DCE's EE programs,

[4] I/M/O the Clean Energy Order Programs and Budget for Fiscal Year 2021 – True-up and Revised Budgets and Program Changes, BPU Dkt. No. QO20080529 (Mar. 24, 2021).

there are large increases in other areas, and new budget lines that more than offset the proposed reductions.

While the Draft CRA states that the DCE has "considered the program's historic results and current trends" in developing the current budget proposal, the Draft CRA presents a table of the Clean Energy Program's "Historical Results" which only shows Fiscal Years 2014 through 2020, with no accompanying analysis.[5] The documentation accompanying the budget offers very little information about the how previous years' budgets have informed the current proposal. DCE has also not explained why there remains such a large carryover (over $241 million) from FY21, or how the performance of the FY21 programs has influenced FY22 projections.

The impacts DCE's proposals will have on customer bills are not addressed in the materials posted for comments. DCE is proposing to maintain the same level of SBC collections, while simultaneously requiring the utilities to increase their EE investments. The impact on ratepayer bills will likely be substantial. However, DCE has not provided any estimates of those impacts, either on a per-kWh or per-therm basis, in dollars per month or per year, or in percentage terms relative to current rates. Further, the Board has only recently authorized the retention of a consultant to analyze the overall rate impact of the Energy Master Plan. See, May 5, 2021 BPU Meeting Agenda, Item 8C. For this reason, it is difficult, if not impossible to evaluate the cost of the Board's Clean Energy Program in the larger context of the State's clean energy initiatives and goals.

[5] Draft CRA, p. 15.

Information about the benefits ratepayers can expect to see from the proposed expenditures is also lacking.[6] In this regard, the materials provided in support of DCE's budget proposal stand in stark contrast with the with the amount of data, analysis, and support that the Board required the electric and gas utilities to submit in support of their proposed energy efficiency programs and budgets, despite the fact that the DCE's single-year budget dwarfs most of the utilities' three-year plans in scale and expense. The materials provided for comment contain narrative descriptions of the history of clean energy spending and proposed program, but scarcely any analysis. As an example, in the materials provided in support of DCE's proposed EE programs, DCE has no explanation of its proposed budgets for its individual EE programs, such as number of customers to be served, cost per customer, or cost-benefit analysis. Even the projected savings are presented only in the most aggregate form,[7] with no supporting analysis or explanation. DCE has not set any goals or metrics for itself. While the need to support the utilities' required savings under the CEA is implied,[8] the role of CEP initiatives in reaching the State's clean energy goals is unexplained.

Rate Counsel also notes that prior to FY20, the then Office of Clean Energy released multi-year budget proposals and program plans. This practice was suspended in favor of single-year plans in FY20, presumably due to the ongoing development of a new Energy Master Plan and the impending reorganization of program administration discussed above. While the reliance on single-year plan may have been unavoidable as a temporary measure while these changes were underway, the systems are now in place. The Board is under a statutory mandate to undertake a comprehensive analysis of it clean energy programs every four years. N.J.S.A.

[6] The only quantitative projection of benefits is the projected electricity and gas savings shown in Appendix F to the FY22 TRC Compliance Filing.
[7] Draft CRA. page 15.
[8] Id., page 7.

48:3-60 (a)(3). The Board's continued failure to engage in the required multi-year planning is a substantial impediment to stakeholders' ability to provide meaningful input.

The above deficiencies are only exacerbated by the limited time available for comment. The draft budget was released on May 18, 2021, and presented at a stakeholder meeting on May 25, 2021, a mere seven business days before these comments were due, given the intervening holiday weekend. This time frame was not adequate for stakeholder to review DCE's proposal, and provided no opportunity for a meaningful stakeholder process

The funding for the Board's Clean Energy Program comes from captive ratepayers who rely on the Board to assure that the rates they pay are reasonable. The Board must assure that any funds expended on the Board's Clean Energy Programs achieve benefits that are commensurate with the corresponding burdens they impose on ratepayers. The materials posted for comment are not adequate for the Board to carry out this obligation. Rate Counsel urges the Board to require a more meaningful analysis of the basis for the DCE's proposed budget allocations, and the expenditures, and the benefits expected to be achieved as a result of the proposed budget.

Additionally, Rate Counsel would like to note that the current federal administration appears poised to propose new clean energy initiatives and funding to the states. If the DCE's priorities change as a result of new federal initiatives or the state is provided with federal funding that is allocated toward clean energy programs within FY22, Rate Counsel recommends that the DCE re-evaluate the FY22 budget and provide an opportunity for public comment. Any federal funding that the state receives should offset ratepayers' contributions to the NJ CEP.

COMMENTS ON SPECIFIC PROGRAMS AND BUDGETS

I. STATE ENERGY INITIATIVES

Approximately $87.1 million of DCE's proposed budget is for "State Energy Initiatives." This budget line, which is not explained in any of the compliance filings posted for comment, represents Clean Energy Program funds diverted to the State's General Fund. Rate Counsel continues to believe that this is not an appropriate use of ratepayer funds. While the amount of the diversion has been reduced from prior years' budgets, Rate Counsel encourages further reductions and ultimately the elimination of this diversion. State priorities that are neither directly nor transparently related to the achievement of the State's clean energy objectives should not be funded by ratepayers, especially those who may be struggling to pay their energy bills. Further, this year's budget decrease is largely offset by a significant increase in funding for the "State Facilities Initiative," which is included in DCE's proposed budget for EE programs. While this latter use of funds has the stated intention of being directed toward projects that will result in energy and cost savings for State facilities, the program lacks transparency, oversight and accountability.

II. ENERGY EFFICIENCY PROGRAMS

A. Residential Programs

As noted in the FY22 TRC Compliance Filing, the CEP is terminating its administrative responsibility for any new projects under the Existing Homes programs and the Energy Efficient Products program, and focusing only on Residential New Construction ("RNC"). In its FY22 proposal, the proposed RNC program budget is 25% lower than the budget for FY20, despite offering the same incentives to participants. At the same time, TRC projects electric savings that are 14% higher than projected in the FY20 filing. This apparent paradox is not resolved by the

cost benefit results (Appendix G) which are essentially the same as in the FY20 filing for this program. For FY22, TRC claims that the cost effectiveness as measured by the TRC test for its RNC program will be 0.6, meaning that this program is not cost-effective. Staff and TRC should reconcile this result with the expectation of more savings with less funding for essentially the same program as was proposed in FY20.

B. Comfort Partners

The primary change in the Comfort Partners program is the proposed pilot program to allow location-based eligibility with self-certification of income, thus reducing the burden of income verification for low-income customers.[9] Rate Counsel supports this change. Rate Counsel also supports DCE's proposed increase in funding for the Comfort Partners program from approximately $34.1 million in FY21 to approximately $45.9 in the proposed FY22 budget.

Rate Counsel continues to urge that the allocation of the Comfort Partners budget among the utility territories be presented and explained in a way that is more easily understandable. For example, the Comfort Partners Compliance Filing states as follows:

> Allocation of costs in different cost categories may appear to be inconsistent among utilities. As an example, PSE&G covers the cost of statewide printing of Comfort Partners materials and JCP&L covers the cost of administering and maintenance of the LEEN System administration, program evaluation, etc.[10]

Rate Counsel suggests that, for presentation purposes, these costs be allocated to each service territory using eligible customers or sales. This will more clearly show the costs attributable to each utility. Additional information is needed to show how the budget was allocated by service territory, and that this allocation is equitably distributed among all ratepayers. It is important for stakeholders to understand the breakout of the opportunity to participate in Comfort Partners by

[9] Comfort Partners Compliance Filing, p. 3.
[10] Comfort Partners Compliance Filing, p. 5.

service territory and how program budgets are allocated. These allocations can limit or expand the opportunities within the different service territories. Therefore, Rate Counsel recommends that the following data by service territory should be included as a separate table in Appendix A:

1. Number of eligible customers kWh sales;
2. Number of eligible customers who participated previously;
3. Number of participating customers in FY22; and
4. kWh and/or therm savings for participating customers in FY22.

C. Commercial and Industrial Programs

As with the Residential programs, a number of Commercial and Industrial ("C&I") programs will no longer be administered by TRC or NJCEP as they are transitioned to utility administration for now applicants in FY22, or in some cases phased out. These include SmartStart Retrofits; Pay for Performance – Existing Buildings; Custom and Tailored Retrofits; and the Direct Install program. The CEP will retain administrative control of the SmartStart for new construction; Pay for Performance for New Construction, the Large Energy Users Program; Custom and Tailored programs for new construction and gut rehabilitations; and the Local Government Energy Audit Program. With this diminished set of programs, the proposed FY22 C&I energy efficiency budget is 16.5% lower than the FY21 budget and 13% lower than the FY20 budget. Further, 88% of the proposed budget is earmarked for the C&I buildings program, compared to 81% in FY21 and 66% in FY20.

Despite the decreased overall budget, TRC is projecting a 21% increase in MWh savings relative to FY20, and a decrease in therm savings of approximately 32% relative to FY20. It is unclear why TRC's savings expectations are so different from that of FY20. This is particularly of concern as reducing gas use in buildings should be a significant focus of any new

construction program, consistent with New Jersey's greenhouse gas emissions reduction goals.[11] Rate Counsel recommends that new construction programs, in particular, focus on reducing gas use in new buildings.

D. Energy Efficiency Transition

The proposed budget includes an allocation of $19.3 million for the Energy Efficiency Transition. DCE's narrative description of this budget item of its Compliance filing does not explain how DCE plans to spend this budget.[12] The only indication of how the money will be spent is in DCE's budget summary, which states that $11.6 million is for "Administration" and $7.7 million is for "Rebates, Grants, and Other Direct Incentives."[13] This in an insufficient explanation for planned expenditures of $19.3 million. DCE should be directed to provide additional support for this budget item.

E. State Facilities Initiative

DCE proposed to allocate approximately $61.7 million, or almost 25% percent of the total proposed budget for programs managed by DCE, an increase of nearly 150% from the FY21 budget of approximately $24.9 million, to the State Facilities Initiative. This initiative "identifies and implements energy efficiency projects in State-owned facilities or State-sponsored projects with the objective of producing energy and cost savings."[14] Rate Counsel has raised concerns about this program in its comments on DCE compliance filings in previous years because DCE did not provide any information about savings and cost-effectiveness for this

[11] P.L. 2007 c.112; P.L. 2018 c.197, the New Jersey Global Warming Response Act, established goals of returning to 1990 statewide greenhouse gas emissions levels by 2020, and reducing statewide emissions to 80% below 2006 levels by 2050.
[12] DCE Compliance Filing, p. 3-4.
[13] DCE Compliance filing, p. 21.
[14] DCE Compliance Filing, p. 4, 21.

program. This concern has only increased this year as the proposed budget for this program rapidly grows.

In its FY20 filing, DCE (then the Office of Clean Energy, or "OCE") stated that the State Energy Office had "initiated a work plan to obtain historical energy savings metrics from past projects and start tracking these metrics on current and future projects to inform future funding decisions."[15] Whether or not such a "work plan" was ever completed, DCE and the State Energy Office should provide a much more detailed accounting of the use of these funds and the resulting energy savings and other benefits, and to assess the cost-effectiveness of this program.

III. DISTRIBUTED ENERGY RESOURCES

A. Combined Heat and Power and Fuel Cells

DCE currently offers incentives for combined heat and power ("CHP") and fuel cell ("FC") projects. To qualify for incentives, program applicants must meet a number of eligibility criteria. Incentives vary by technology, fuel source, type, the presence or absence of heat recovery, project size and total project cost. DCE is proposing a budget of approximately $20.6 million for CHP, consisting of $5.4 million in new funding and $15.1 million in committed funds carried forward from FY21.

Rate Counsel continues to be concerned about the proposal to continue the availability of incentives for funding fossil fueled CHP and FC projects. Given the goals of the Energy Master Plan to move away from fossil fuel usage, the Board should consider limiting eligibility for incentives to renewably fueled facilities. Further, CHP and FC are mature technologies with established markets.

[15] OCE FY20 Compliance Filing, p. 6.

Rate Counsel continues to recommend that the Board carefully evaluate the need for ratepayer funding of these technologies. Based on the materials circulated by DCE, there is no indication that such an evaluation has been done to date. Further, DCE has not provided any analyses of the costs and benefits of the program as proposed. It is unclear how DCE expects this program to contribute to the State's energy goals, and at what cost. Rate Counsel understands that CHP and FC facilities can provide efficient generation and contribute to system resiliency and reliability. However, this program, like all of the State's clean energy programs, should be based on a careful analysis of costs and benefits. The materials circulated for review also contain no analysis of the costs and benefits of the program as proposed.

Rate Counsel also has previously expressed concerns about providing subsidies for less efficient FC projects. DCE is proposing to continue to provide subsidies to FC projects with annual system efficiencies as low as 40% while the CHPs are subject to a 60% minimum efficiency threshold for CHPs.[16] The Board should consider eliminating this discrepancy.

B. <u>Microgrids</u>

DCE is currently in Phase II of its Town Center Distributed Energy Resources ("TCDER") program which aims to address resilience in areas of the state that were affected by Superstorm Sandy. As detailed in DCE's Compliance Filing, in March 2021 the Board awarded a total of $4 million in incentives to 8 applicants to support the development of detailed designs for TCDER microgrids. DCE's budget for this program consists entirely of the $4 million carried over from FY21 to fund these awards—no new funding is being proposed. [17]

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[16] TRC Compliance Filing, p. 101.
[17] DCE Compliance Filing, p. 5-6; Draft Budget.

DCE's Compliance Filing states that the Board has applied for and received a grant of $300,000 from the United States Department of Energy to study financing for microgrids.[18] Rate Counsel urges the Board to use this funding to explore financing models that will minimize the need to rely on ratepayer funding for microgrids.

IV. Renewable Energy Programs

The renewable energy ("RE") program budget for the CY2022 NJCEP is approximately $28.4 million with $17.7 million comprised of prior years' carryover dollars. Current year RE spending is proposed at $10.7 million or 4.1 percent of the current year budget (less incentives) of $257.6 million. Most of the current year funding is dedicated to the offshore wind ("OSW") program (~$8 million) with the remainder of the RE funding being focused on solar registration program ($2.7 million). The OSW funding appears to be primarily dedicated to hiring consultants to plan for the capacity additions recently required under Governor Murphy's Executive Order 92 which increases New Jersey's OSW capacity commitment from 3,500 MW by 2030 (under EO8) to 7,500 MW by 2035.

The renewable energy portion of the budget includes $2.7 million budget to maintain SREC registration levels. While DCE notes that the Clean Energy Act ("CEA") significantly changes how New Jersey will approach solar energy development, and how the CEA discontinues the current SREC market, there is no discussion about how these changes may, or may not, impact these SREC registration costs. Rate Counsel recommends that DCE be directed to provide a more detailed explanation of how CEA mandated changes to solar market design impact these costs.

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[18] Id., p. 6.

V. EDA PROGRAMS

The clean energy budget also proposes spending $10.5 million in economic development funding ("EDA Programs") most of which are to support the new clean energy and manufacturing and OSW manufacturing/assembly hubs on the coast. DCE has not provided support to link the proposed funding levels to specific activities.

VI. PLANNING AND ADMINISTRATION

DCE's proposed budget includes a large increase in the amount allocated for Planning and Administration. DCE is proposing to budget approximately $45.3 million for Planning and Administration, an increase of more than 60% over the FY21 budget of approximately $27.3 million. This increase is being proposed despite the fact that many of the energy efficiency programs will now be administered by the utilities. Generally, administrative costs should be approximately 10% of an energy efficient program's budget. Due to the lack of clarity, Rate Counsel cannot determine if that is the case for DCE here, and if not, why DCE requires a higher percentage of administrative costs. Rate Counsel recognizes that there are new administrative burdens for the DCE associated with the program transition and that the current (FY21) CEP programs must continue to serve customers for measures initiated prior to the program handover, even for programs for which it is yielding responsibility. However, DCE's EE program budget includes a separate allocation of approximately $19.3 million for the energy efficiency transition, and DCE has not explained why administrative costs should increase as its responsibilities for EE programs decrease.

Within the Planning and budget, the largest increase from FY21 is for Program Evaluation and Marketing. The utilities will also be conducting program evaluation and

marketing for their energy efficiency programs. The DCE should explain the basis of this increase in the context of utility CEA efforts; for example, how much is associated with hiring the Statewide Evaluator, how much is for marketing its programs, and what other evaluation and marketing tasks will be supported and at what levels.

VII. BPU INITIATIVES

A. Energy Storage

DCE's proposed budget for BPU initiatives includes a proposed $20 million in incentives for energy storage projects. The only support for this proposed budget is the brief discussion found at page 19 of DCE's compliance filing. As DCE recognizes, there is no storage program currently in effect. DCE states that the storage program will include two phases. The first is the solar-plus-storage pilot program that was included in Staff's Solar Successor Straw Proposal, and a second phase, to be developed at some unspecified time in the future, would leverage United States Department of Energy funding to incentivize additional storage projects. It is unclear how DCE proposes to expend the proposed $20 million budget. Under the Solar Successor Program Straw Proposal, solar-plus-storage projects would be incentivized through renewable energy certificates ("RECs"), the value of which would be determined through a competitive solicitation.[19] Since these incentives would be paid for outside of the NJCEP budget, it is unclear how much, if any, of the $20 million budget would be required to support this program. It is also unclear how much DCE can reasonably be expected to expend on the second phase of the storage program, when the Board has not even initiated the proceedings to develop this phase, which appears to rely upon federal not state funding.

[19] Solar Successor Straw Proposal, p. 14.

Rate Counsel notes that DCE's plans for the storage program in FY21 proved to be overly optimistic. DCE was ultimately unable to spend any of the $7 million originally budgeted for the Energy Storage program during FY21.[20] DCE should be required to provide additional documentation to demonstrate that the proposed FY22 budget for Energy Storage is a realistic one.

[20] I/M/O the Clean Energy Order Programs and Budget for Fiscal Year 2021 – True-up and Revised Budgets and Program Changes, BPU Dkt. No. QO20080529, Order at 7 (Mar. 24, 2021)