



520 Green Lane  
Union, NJ 07083  
T: (973) 886-7635  
[skelly@sjindustries.com](mailto:skelly@sjindustries.com)

Sheree L. Kelly, Esq.  
Regulatory Affairs Counsel

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**VIA ELECTRONIC MAIL**

Aida Camacho-Welch  
Secretary of the Board  
44 South Clinton Ave., 1st Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
Phone: 609-292-1599  
Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

**RE: I/M/O the Implementation of P.L. 2018, c.17 Energy and Water Benchmarking of  
Commercial Buildings,  
BPU Docket No. QO21071023**

Dear Secretary Camacho-Welch:

Elizabethtown Gas (“ETG”) and South Jersey Gas (“SJG”) (collectively “the Companies”) respectfully offer these comments in response to the New Jersey Board of Public Utilities’ (“Board”) request for comment on its proposal related to the 2018 Clean Energy Act’s (“CEA”) Benchmarking Requirement (“Proposal”). ETG and SJG are member companies of the New Jersey Utilities Association (“NJUA”), and incorporate the comments filed by NJUA in this proceeding herein by reference.

**Customer Information Disclosure**

SJG and ETG are bound by the customer information rules, which require that prior to disclosing customer information (including usage information) to a third-party, the Companies are required to obtain customer consent.

N.J.A.C. 14:4-7.8 states in pertinent part:

(a) Customer information shall not be disclosed, sold or transferred to a third party without the affirmative written consent of the customer or alternative Board-approved consent methodology, except pursuant to N.J.A.C. 14:4-2.3, or under certain conditions, e.g., a third-party performing services directly for a TPS under a binding confidentiality agreement.<sup>1</sup>

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<sup>1</sup> See, N.J.A.C. 14:4-7.8 et. seq.

**N.J.S.A. 48:3-85-states in pertinent part:**

b. (1) Except as provided in paragraph (2) of this subsection, an electric power supplier, a gas supplier, an electric public utility, and a gas public utility shall not disclose, sell or transfer individual proprietary information, including, but not limited to, a customer's name, address, telephone number, energy usage and electric power payment history, to a third party without the consent of the customer.

(3) Whenever any individual proprietary information is disclosed, sold or transferred, pursuant to paragraph (1) or paragraph (2) of subsection b. of this section, it shall be used only for the provision of continued electric generation service, electric related service, gas supply service or gas related service to that customer. In the case of a transfer or sale of a business, customer consent shall not be required for the transfer of customer proprietary information to the subsequent owner of the business for maintaining the continuation of such services.in the customer's consent.<sup>2</sup>

There are limited exceptions to these rules; such as disclosure to a government aggregator that is a municipality or a county, however, those exceptions do not appear to apply to the disclosure of customer information as intended by the Proposal. As such, the Companies respectfully request that the Board provide further direction on this issue, with particular attention to the aforementioned rules.

**Principal Concepts**

The Companies agree with the proposed definition of “commercial buildings”. The Companies also agree with the concept of a Board generated, annual list of buildings that fall within the definition of “commercial buildings” over 25,000 square feet. The Companies believe that definition should strictly mirror the language from the legislation, which contemplates a 25,000 square foot requirement at the individual building level. Further, while some stakeholders have requested that the list of eligible buildings be expanded to include multi-family properties, the Companies believe that such an expansion is not appropriate at this time given the challenges with implementation and the fact that multi-family properties fall outside the plain language of the legislation.

The Proposal also seeks input regarding the potential for an opt-out process. It is critical that any opt-out process address the Companies' obligations to protect the privacy of customer data.

**Implementation**

The Companies respectfully suggest that a phased implementation approach to the benchmarking initiative is necessary. Implementation will be extremely challenging and the Companies believe

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<sup>2</sup> See N.J.S.A. 48:3-85, et seq.

that the benchmarking initiative should initially take a simplified approach. The initiative could then be expanded over time based upon experience and stakeholder feedback.

In addition, the Companies support exploring methods alternative to a “web services” solution. This will allow adequate time for the “web services” solution to be further considered and sufficiently vetted. Operationally, the Companies believe that there will be challenging execution issues that require a reasoned and thoughtful approach to implementation.

### **Costs**

The Companies submit that all incremental operations and maintenance costs not otherwise reflected in rates, including associated utility administrative and IT costs, must be fully recoverable. The benchmarking initiative will require additional personnel who know and understand the system, and understand customer data and usage to regularly respond to the inevitable outreach requiring the Companies to verify, clarify or correct benchmarking information. Cost recovery provisions should allow for the inclusion of all reasonable and prudent incremental administrative costs related to implementation of the benchmarking system.

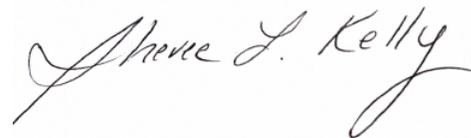
### **Energy Efficiency Programs**

The Proposal includes a recommendation that compliance with these benchmarking requirements should be a pre-requisite for participating in both Board and Utility energy efficiency programs. The Companies disagree with this recommendation as the Companies believe this will create new barriers to participation in energy efficiency programs and is not in furtherance of the Board’s Clean Energy Act goals.

### **Conclusion**

The Companies appreciate the opportunity to submit these comments. The Companies look forward to working collaboratively with the Board Staff on this important initiative.

Respectfully,

A handwritten signature in cursive script that reads "Sheree L. Kelly". The signature is written in black ink and is positioned above the printed name.

Sheree L. Kelly