



## State of New Jersey

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January 20, 2021

#### **Via Electronic Mail**

Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 3rd Floor, Suite 314  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**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:

Please accept for filing the comments of the New Jersey Division of Rate Counsel ("Rate Counsel") concerning the Notice ("Notice") seeking comments on the Straw Proposal for Benchmarking prepared by the Staff of the BPU dated December 16, 2021 and revised on January 7, 2022.

Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities (the "Board") in I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, this communication is being filed electronically with the Secretary of the Board and is being provided to each person on the service list by electronic mail only. No paper copies will follow. **Please acknowledge receipt of this comment letter.** Thank you.

### **Summary**

As set forth in more detail below, Rate Counsel's comments focus on two areas. First, Rate Counsel is concerned about the cost of the proposed program. Rate Counsel recommends that Staff consider alternative funding sources, particularly any available federal grants or monies, prior to seeking program cost recovery through utility rates. Second, Rate Counsel recommends that data from the benchmarking programs should foster actionable results, yielding benefits in energy efficiency and water conservation. As such, Rate Counsel's comments do not fit squarely into the twelve questions for stakeholders set forth in the Notice.

### **Background**

The Clean Energy Act of 2018 (L. 2018, c. 17, "CEA") requires the benchmarking of energy and water use for certain commercial buildings:

No later than five years after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the Board shall require the owner or operator of each commercial building over 25,000 square feet in the State to benchmark energy and water use for the prior calendar year using the United States Environmental Protection Agency's (EPA) Portfolio Manager tool.<sup>1</sup>

Furthermore, one of the goals of the 2019 New Jersey Energy Master Plan ("EMP") is to "Establish transparent benchmarking and energy labeling."<sup>2</sup>

Consistent with this mandate, the Board Staff developed a Straw Proposal for benchmarking energy and water use.<sup>3</sup> Subsequently, on January 7, 2022, the Board issued a

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<sup>1</sup> N.J.S.A. 48:3-87.10(4)(b).

<sup>2</sup> EMP, Goal 3.3.2.

<sup>3</sup> Straw entitled, "In the Matter of the Implementation of P.L. 2018 c.17 Energy and Water Benchmarking of Commercial Buildings," dated December 16 2021 and revised January 7, 2022.

revised Notice for a Stakeholder Meeting, held on January 6, 2022, and solicited comments on the Straw Proposal.

### **Comments on the Straw Proposal**

As noted above, Rate Counsel's concerns focus on two areas, addressed here.

#### **1. Funding**

The Benchmarking Straw proposes additional Staff to implement the benchmarking program, including a help desk, as well as employing consultants to implement the program. Rate Counsel concurs that such steps will likely be necessary to implement the programs. However, Rate Counsel recommends that Staff explore other funding sources for this program, particularly any funding which might be available pursuant to the provisions of the recently enacted federal Infrastructure Investment and Jobs Act of 2021.<sup>4</sup> Such outside funding will offset any program costs recoverable from ratepayers.

#### **1. Actionable Data**

Rate Counsel agrees that the data provided through the benchmarking programs should be beneficial to energy efficiency and water conservation efforts. The benchmarking data may be used to identify business segments and geographic areas underserved by current energy efficiency and conservation programs. In turn, the benchmarking data may be used to tailor existing programs or develop new programs to reach the underserved markets.

However, the benchmarking outreach plan should extend beyond reporting. Assistance should be offered to owners of low-ranking buildings, to assist them in obtaining the resources

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<sup>4</sup> 117 P.L. 58, 2021.

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needed to improve their standing, such as access to utility energy efficiency and conservation programs.

Respectfully submitted,

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