



Agenda Date: 4/30/24
Agenda Item: 8C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF NEW JERSEY'S CLEAN) ORDER
ENERGY PROGRAM: NEW CONSTRUCTION)
PROGRAM) DOCKET NO. QO22050327

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Michael Ambrosio, Director, Policy and Planning, TRC Environmental Corporation

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board" or "BPU") considers the recommendation of Board Staff ("Staff") to approve a redesign of the New Construction Program ("NCP" or "Program") as offered through New Jersey's Clean Energy Program ("NJCEP").

BACKGROUND

On February 9, 1999, the Electric Discount and Energy Competition Act ("EDECA") restructured the electric and gas utility industries in New Jersey by authorizing the Board to permit competition in the electric generation and gas marketplace.¹ EDECA, as amended, also provided for the Board to undertake a comprehensive resource analysis ("CRA") of energy programs every four (4) years; determine the appropriate level of funding for energy efficiency ("EE"), plug-in electric vehicles ("EV") and charging infrastructure, and Class I renewable energy ("RE")² programs in consultation with the New Jersey Department of Environmental Protection ("NJDEP"); and determine, as a result of the CRA, the programs to be funded by a Societal Benefits Charge ("SBC"), the utilities' level of cost recovery and performance incentives for existing and proposed programs, and whether the recovery of demand side management costs may be reduced or extended.³ Accordingly, in 1999, the Board initiated its first CRA proceeding.

¹ N.J.S.A. 48:3-49 et al.

² Class I RE includes electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, methane gas from landfills and methane gas from a biomass facility that cultivates and harvests the biomass in a sustainable manner, as defined at N.J.S.A. 48:3-51.

³ N.J.S.A. 48:3-60(a)(3).

In 2001, the Board issued an Order setting funding levels for EE and RE programs for the years 2001 through 2003, specifying the programs to be funded and detailing the budgets for each of those programs.⁴ Since then, the Board has issued numerous Orders setting the funding levels, related programs, and program budgets for the years 2004 through fiscal year (“FY”) 2024 (“FY24”).⁵

On July 6, 2007, the State enacted the Global Warming Response Act (“GWRA”), L. 2007, c. 112, which established a statewide goal of reducing greenhouse gas (“GHG”) emissions to 80% below 2006 levels by 2050.

In 2018, Governor Murphy signed into law the landmark legislation known as the Clean Energy Act (“CEA”).⁶ This law called for a significant overhaul and amplification of New Jersey’s clean energy systems through increasing the commitment to both EE and RE, as well as building sustainable infrastructure in order to fight climate change and reduce carbon emissions. These efforts should, in turn, create well-paying local jobs, grow the State’s economy, and improve public health while ensuring a cleaner environment for current and future residents.

On July 23, 2019, Governor Murphy signed into law L. 2019, c. 197, which reinforced the GWRA by requiring action in the short-term to better enable the State to meet its GHG reduction goal.

On January 27, 2020, pursuant to Executive Order 28, the Board released New Jersey’s 2019 Energy Master Plan (“EMP”), which provided a comprehensive blueprint for an equitable and smooth transition from reliance on fossil fuels that contribute to climate change to 100% clean energy sources on or before January 1, 2050.⁷ The EMP defines 100% clean energy to mean 100% carbon-neutral electricity generation and maximum electrification of the transportation and building sectors to meet or exceed the GWRA emissions reductions.⁸ The EMP also calls for the building sector to be largely decarbonized and electrified by 2050 with an early focus on new construction and the electrification of oil- and propane-fueled buildings.⁹

⁴ In re the Filings of the Comprehensive Resource Analysis of Energy Programs Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, BPU Docket Nos. EX99050347, EO99050348, EO99050349, EO99050350, EO99050351, GO99050352, GO99050353, and GO99050354, Order dated March 9, 2001.

⁵ In the early years of what is now known as NJCEP, the budgets and programs were based on calendar years. In 2012, however, the Board began basing the budgets and programs on fiscal years to align more closely with the overall State budget cycle. The Board’s fiscal year runs from July 1 of a given year and ends on June 30 of the immediately following year.

⁶ L. 2018, c. 17 (N.J.S.A. 48:3-87.8 et al.).

⁷ Exec. Order No. 28 (May 23, 2018), 50 N.J.R. 1394(b) (June 18, 2018); 2019 New Jersey Energy Master Plan: Pathway to 2050 (“EMP”), https://www.nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

⁸ EMP at 11.

⁹ Id. at 13.

In October 2020, the New Jersey Department of Environmental Protection's ("NJDEP's") GWRA 80x50 Report found that, without steep and permanent reductions in GHG emissions, New Jersey will increasingly experience significant adverse effects of climate change.¹⁰

On November 10, 2021, Governor Murphy signed Executive Order No. 274, setting a policy for the State of reducing GHG emissions to 50% below 2006 levels by 2030, to complement the GWRA's goal.¹¹

On February 15, 2023, Governor Murphy signed three (3) executive orders, including the following:

- Executive Order No. 315 ("EO 315") – EO 315 set a goal that 100% of the electricity sold in the State will be derived from clean sources of electricity by January 1, 2035, including through clean energy market mechanisms.¹² EO 315 also directed the Board to make updates to the EMP consistent with the new January 1, 2035 goal and provide specific proposals to be implemented both in the short-term and longer-term to achieve this goal.¹³
- Executive Order No. 316 ("EO 316") – EO 316 directed that "[i]t is the policy of the State to advance the electrification of commercial and residential buildings with the goal that, by December 31, 2030, 400,000 additional dwelling units and 20,000 additional commercial spaces and/or public facilities statewide will be electrified, and an additional 10 percent of residential units serving households earning less than 80 percent of area median income will be made ready for electrification through the completion of necessary electrical system repairs and upgrades."¹⁴ EO 316 defined electrification as "the retrofitting or construction of a building with electric space heating and cooling and electric water heating systems."¹⁵

PROCEDURAL HISTORY

The Board established FY23 Division of Clean Energy programs and budgets through a Board Order dated June 29, 2022.¹⁶ The June 29, 2022 Board Order was reissued on July 18, 2022 to include comments filed by the New Jersey Utilities Association and the responses to those comments.

On July 12, 2022, the Board gave notice and invited interested parties and members of the public to participate in a stakeholder meeting held on July 22, 2022, via webinar, to discuss the proposed

¹⁰ New Jersey Department of Environmental Protection, New Jersey's Global Warming Response Act 80x50 Report: Evaluating Our Progress and Identifying Pathways to Reduce Emissions 80% by 2050 (Oct. 15, 2020), <https://dep.nj.gov/wp-content/uploads/climatechange/nj-gwra-80x50-report-2020.pdf>, at v ("GWRA 80x50 Report").

¹¹ Exec. Order No. 274 (Nov. 10, 2021), 53 N.J.R. 2105(b) (Dec. 20, 2021).

¹² Exec. Order No. 315 (Feb. 15, 2023), 55 N.J.R. 509(a) (Mar. 20, 2023).

¹³ Ibid.

¹⁴ Exec. Order No. 316 (Feb. 15, 2023), 55 N.J.R. 510(a) (Mar. 20, 2023).

¹⁵ Ibid.

¹⁶ In re the Clean Energy Programs and Budget for Fiscal Year 2023, BPU Docket No. QO22020113, Order dated June 29, 2022; reissued on July 18, 2022.

NCP and to submit comments with respect to the NCP.¹⁷ The Board accepted public comments through July 29, 2022.

On February 17, 2023, Staff released a proposal for the draft FY23 true-up budget, revised budgets, and program changes.¹⁸ Staff provided a summary of the proposed true-up budget process, budget reallocations, and changes to associated documents via a webinar on March 3, 2023.¹⁹ The Board accepted public comments through March 10, 2023.²⁰ On April 12, 2023, the Board approved the FY23 true-up budget, revised budgets, and program changes.²¹ One of the FY23 budget revisions was the addition of \$14,000,000 to the New Construction Programs budget line to accommodate the NCP, increasing the total New Construction Programs budget from \$30,316,692 to \$44,316,692.²²

On March 6, 2024, the Board gave notice and invited interested parties and members of the public to provide written comments on the proposed NCP after incorporating comments gathered from the July 22, 2022 stakeholder meeting and request for comments.²³ The Board accepted public comments through March 27, 2024.²⁴

Also on March 6, 2024, the Board gave notice and invited interested parties and members of the public to participate in a stakeholder meeting held on March 15, 2024, via webinar, to discuss the proposed revised FY24 budget for NJCEP, truing-up the differences between estimated expenses and commitments versus those actually incurred during fiscal year 2023.²⁵ The Board accepted public comments through March 27, 2024.²⁶

Attachment A and Attachment B to this Order include summaries of stakeholder comments from the July 2022 and March 2024 comment periods, respectively, regarding the proposed NCP, as well as Staff's responses.

¹⁷ Notice of Request for Comments, In re Proposed Updates to New Jersey's Clean Energy Program: New Construction Program, BPU Docket No. QO22050327 (July 12, 2022).

¹⁸ Notice of Request for Comments, In re the Clean Energy Programs and Budget for Fiscal Year 2023 – True-Up, Revised Budgets and Program Changes, BPU Docket No. QO22020113 (February 17, 2023).

¹⁹ Ibid.

²⁰ Ibid.

²¹ In re the Clean Energy Programs and Budget for Fiscal Year 2023, BPU Docket No. QO22020113, Order dated April 12, 2023.

²² Id. at 7.

²³ Notice of Request for Comments, In re New Jersey's Clean Energy Program: New Construction Program, BPU Docket No. QO22050327 (March 6, 2024; revised and re-posted March 15, 2024).

²⁴ Ibid.

²⁵ Notice of Request for Comments, In re the Clean Energy Programs and Budget for Fiscal Year 2024 – True-Up, Revised Budgets and Program Changes, BPU Docket No. QO23040236 (March 6, 2024; revised and re-posted March 15, 2024).

²⁶ Ibid.

PROPOSED NEW CONSTRUCTION PROGRAM

Program Overview

The proposed NCP is designed to replace the current new construction programs (“Current New Construction Programs”) which include the following four (4) programs: Residential New Construction (“RNC”), SmartStart New Construction, Pay for Performance New Construction (“P4P-NC”), and Customer Tailored Energy Efficiency Pilot New Construction (“CTEEP NC”).

The transition from the Current New Construction Programs to the NCP will follow a reasonable and orderly schedule that will be provided to stakeholders and the public to ensure a smooth transition.

The proposed NCP is designed to accomplish the following objectives:

1. **Broaden and Deepen the Scope of Energy Savings:** The NCP introduces the Passive House (both PHI and Phius) standard.²⁷ The NCP also eliminates single-measure incentives and instead requires a minimum bundle of at least two (2) energy conservation measures (“ECMs”) to drive deeper energy savings. The Program also includes a rigorous and sophisticated High-Performance Pathway, as defined under “Program Pathways – High-Performance Pathway” herein.
2. **Support Electrification and the Reduction of Greenhouse Gas Emissions:** The NCP introduces an easy-to-understand GHG reduction incentive initiative which issues bonus incentives for estimated reductions in GHG emissions after construction and installation, available to Program participants who opt for the Streamlined Pathway or the High-Performance Pathways, each of which are explained below. This GHG reduction incentive initiative will help prepare the market for electrification and decarbonization, as called for by the EMP and EO 316 and will encourage participation in the solar programs.²⁸
3. **Create a Single Point of Entry and Eliminate Market Gaps:** The NCP is a streamlined program for all new construction buildings. This Program (i) eliminates overlap in the multifamily market which existed due to the difficulty in classifying mixed-use buildings as residential or commercial,²⁹ (ii) eliminates the need for multiple incentive applications for such buildings, and (iii) addresses gaps in the Current New Construction Programs. The NCP provides an entry point for every type of construction project, from single-family homes incorporating a small bundle of ECMs, where energy savings are measured monthly by their respective electric and gas utilities, to large industrial buildings

²⁷ The Passive House standard is a holistic, performance-based design and building methodology that ensures healthy, energy-efficient, comfortable, and affordable buildings. The Passive House Institute (“PHI”) and Passive House Institute US (“Phius”) are non-profit institutions that develop and promote this standard and can certify buildings that meet the standard as Passive Houses. See also https://passivehouse-international.org/index.php?page_id=150.

²⁸ EO 316; EMP at 159-170. The Solar Registration Programs provide registration for renewable energy credits for solar projects, including behind-the-meter, community solar, and direct grid-supply projects connected to the New Jersey electric distribution system.

²⁹ A mixed-use building contains both commercial and residential multifamily spaces, but the Current New Construction Programs are designed to serve buildings that are either solely residential or solely commercial.

incorporating many ECMs, whose energy savings are calculated through sophisticated modeling.

4. **Optimize Program Process Flow:** In addition to the benefits of the single point of entry described above, the use of nationally-recognized technical building standards and programs sponsored by third parties, such as Leadership in Energy and Environmental Design (“LEED”) and the United States Environmental Protection Agency’s (“EPA”) ENERGY STAR®, often referred to collectively as “Proxies,” is designed to simplify and increase participation. Under the High-Performance Pathway, participants have the option to meet these well-known, widely used standards to qualify for NCP incentives.
5. **Increase Equity and General Participation:** The NCP is designed to provide equitable access to programs for projects located in low- to moderate-income (“LMI”) census tracts, income-qualified overburdened communities (“OBCs”), and Urban Enterprise Zones (“UEZs”)/Opportunity Zones (“OZs”) through enhanced incentives, targeted outreach, and other initiatives.³⁰ The Program promotes and supports professional growth through a Workforce Development Incentive (as defined and described further below), especially to support the growth of energy professionals who can develop LEED and Passive House projects.
6. **Inform Code Development and Supports Code Compliance:** By encouraging deeper savings and more robust ECM packages geared toward GHG reduction, the Program should help to inform and advance the development of future building and energy codes.

The proposed NCP will support many of the EMP’s strategies and goals. This includes increasing New Jersey’s overall EE and starting the transition for new construction to be net zero carbon by expanding and accelerating incentive programs for new construction buildings.³¹ The proposed NCP will support the EO 316 target to install zero-carbon emission space heating and cooling systems in 400,000 homes and 20,000 commercial properties and make 10% of all LMI properties electrification-ready by 2030.

New construction buildings or buildings of all building types undergoing substantial renovation, also known as “gut rehab,” are eligible to participate in the NCP, so long as their utility bills include or will include contributions to the SBC.³²

³⁰ See the following webpages for the identification of and more information about OBCs, UEZs, and OZs: <https://dep.nj.gov/ej/communities>, <https://nj.gov/governor/njopportunityzones>, and <https://www.nj.gov/treasury/taxation/businesses/salestax/uez-over.shtml>. The definition of “LMI” is set forth in the Program Guide, applications, and/or other Program documents.

³¹ EMP, Goal 3.1: Increase New Jersey’s Overall Energy Efficiency, at 138-146; EMP, Goal 4.1: Start the Transition for New Construction to be Net Zero Carbon, at 159-166.

³² As authorized by EDECA, N.J.S.A. 48:3-49 et seq., New Jersey public electric and gas utilities’ rates include funding for programs that provide societal benefits such as low-income programs, gas plant remediation, nuclear plant decommissioning, social programs such as the Universal Service Fund and Lifeline, and the Clean Energy Program. See also N.J.S.A. 48:3-60. These utilities have an obligation to confirm that new construction buildings or buildings undergoing “gut rehab” are in an investor-owned utility (“IOU”) service area. An “IOU service area” means an area where buildings are served by investor-owned gas and electric utility companies.

A gut rehab project may be eligible for a utility-sponsored EE program. In these instances, the applicant must choose which program it will utilize and cannot use both NJCEP and utility-offered programs for the same gut rehab measures.

The target market for the NCP is builders, developers, and Program Partners, as defined below. Any EE measures included in or as part of an application to the NCP will not be eligible for incentives under any other NJCEP EE or New Jersey utility-sponsored EE programs.

Program Pathways

The proposed NCP offers three (3) pathways to earn incentives, each of which includes a different set of program requirements. The NCP will provide incentives for projects meeting the applicable set of requirements. The pathways and their requirements are summarized below:

1. **Bundled Pathway:** requires the implementation of a bundle (minimum of two) of relatively typical energy ECMs that will be identified in the forthcoming Program guide and that exceed current building code requirements.³³
2. **Streamlined Pathway:** a simplified, whole-building approach that encourages deeper energy savings than the Bundled Pathway but requires less time and expense than traditional programs that maximize energy cost savings. Although the Streamlined Pathway requires some modeling of ECMs, the modeling is performed in a web-based user interface or through a similar modeling tool, Sketchbox. Access to these modeling platforms will be provided by the Program.
3. **High-Performance Pathway:** encourages the deepest energy savings by requiring that applicants take a whole-building approach and either exceed code requirements by a certain percentage or meet one of several sets of stringent technical standards for new construction, such as LEED, ENERGY STAR®, etc. This pathway largely replaces the RNC Program and P4P-NC Program.

Workforce Development

The proposed NCP includes a workforce development component which provides incentives (“Workforce Development Incentive”) for the recruitment and training of new energy professionals and Program Partners to oversee and perform the work involved with designing and installing ECMs. Program Partners include energy consultants, architects, engineers, and “raters.” Program Partners work under contract with builders and developers, acting as their energy experts, and are required to strictly follow Program requirements. “Raters” are third party-certified energy professionals who oversee EE work performed for the Program. A rater may be certified as a Home Energy Rating System Provider approved by an EPA-Approved Verification Oversight Organization or as a Modeler approved by an EPA-Approved Multifamily Review Organization. A “Verification Oversight Organization” is responsible for decisions related to the granting and withdrawal of ENERGY STAR® certifications for homes and apartments, and provides for the credentialing, oversight, and quality assurance of businesses and individuals that verify homes and apartments to earn ENERGY STAR® certification. A Multifamily Review Organization

³³ Relatively typical ECMs that are eligible for purposes of participating in the Bundled Pathway include efficient kitchen, elevator, and heating, ventilation, and air conditioning equipment as well as insulation and envelope leakage reduction measures. The “envelope” of a building are the items that separate conditioned spaces from unconditioned spaces and includes items such as doors, windows, walls, and siding.

provides the required review and approval of project submissions for the ENERGY STAR® Multifamily High Rise and ENERGY STAR® Multifamily New Construction programs.

The Workforce Development Incentive offers up to 100% reimbursement for successful completion of trainings and certifications offered by third-party entities for persons who live in New Jersey, whose principal place of work is in New Jersey, or who have another nexus to New Jersey as approved by the Program Manager, TRC, and Staff. The trainings and certifications must be approved by the Program Manager prior to the application for reimbursement. The current approved list of certifications consists of certifications recognized by various Proxies; others may be added if the applicant can demonstrate that the course/certification will support participation in the NCP.

Garden State Challenge

The proposed Garden State Challenge (“GSC”) is a pilot competition-based program that supports the design and development of innovative, sustainable, and energy efficient new construction buildings that will pay their share of the SBC through their applicable electric distribution company’s on-bill charge once built. The GSC’s goals are directly aligned with New Jersey’s aggressive efficiency and decarbonization goals as laid out in the EMP and EO 316. It would provide development and construction support for advanced building designs that take especially significant strides to a carbon-free future, and it recognizes the benefits of collaborating with the private sector to innovate and test non-traditional standards or designs critical to meeting our aggressive climate goals.

DISCUSSION AND FINDINGS

Between July 2022 and February 2024, Staff distributed the proposed FY23 Program changes, to be implemented in FY24, to the EE and RE listservs, posted them on the NJCEP website, held public stakeholder meetings, and solicited written comments from the public. Staff considered and responded to those comments. Accordingly, the Board **HEREBY FINDS** that the processes utilized in developing these proposed Program changes were appropriate and provided stakeholders and interested members of the public with adequate notice and opportunity to comment.

The Board has reviewed the proposed FY23 Program changes to be implemented in FY24. The Board **HEREBY FINDS** that the proposed NCP provides the following benefits:

- Improved customer experience by offering a single point of entry for all new construction projects;
- Elimination of existing gaps in the Current New Construction Programs;
- Improved access for multi-use buildings;
- Encouragement of deeper energy savings and GHG reductions;
- Assistance in preparing the marketplace for building electrification; and
- A design that retains the most effective elements from the Current New Construction Programs.

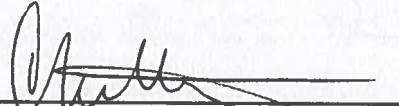
Additionally, the Board **HEREBY FINDS** that the proposed redesigned NCP will benefit customers and is consistent with the State of New Jersey’s goals of reducing energy usage, encouraging electrification, reducing emissions, and supporting workforce development in the new construction sector, especially given the State’s updated goal of 100% clean energy by 2035 and

ambitious building electrification targets as stated in EO 316. The Board **HEREBY APPROVES** the proposed changes to the NCP and **HEREBY DIRECTS** Staff to take all necessary and appropriate steps to implement such changes and to make adjustments to the NCP and GSC consistent with this Order.

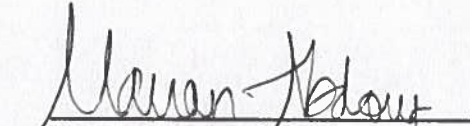
This Order shall be effective on May 7, 2024.

DATED: April 30, 2024

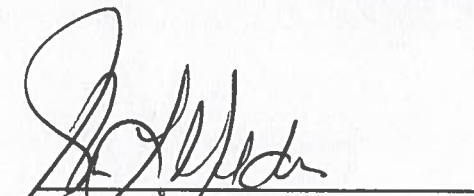
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BY:


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PRESIDENT


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COMMISSIONER


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COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST: 
SHERRI L. GOLDEN
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

IN THE MATTER OF NEW JERSEY'S CLEAN ENERGY PROGRAM: NEW CONSTRUCTION PROGRAM

DOCKET NO. QO22050327

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Attachment A

On July 12, 2022, Staff posted on the NJCEP website and distributed to the EE and RE listservs a Notice regarding the proposed New Construction Program. Staff conducted a stakeholder meeting on July 22, 2022 and accepted written comments through July 29, 2022. Written comments submitted by Anthony Harrington, Dandelion Energy, Devon Basher, EAM Associates, Elizabethtown Gas Company (“ETG”) and South Jersey Gas Company (“SJG”), Energy Efficiency Alliance of New Jersey (“EEA-NJ”), Gahl Sorkin Spanier, Jennifer Nielsen, Ken Dolsky, Kirk Frost, MaGrann, Mark Knopsnyder, Michael Winka, Muiyiwa Onigbogi, New Jersey Builders Association, New Jersey Division of Rate Counsel (“Rate Counsel”), New Jersey Natural Gas Company (“NJNG”), New Jersey Propane Gas Association (“NJPGA”), New Jersey Utilities Association (“NJUA”), a broad consortium of environmental organizations calling itself the “NGO Commenters,” Owens Corning, Passive House Network, Patricia S. Miller, Patrick Candalla, ReVireo, Robert Erickson, the NJ 50 x 30 Building Electrification Team (“50 x 30”), and the United States Green Building Council (“USGBC”) are summarized below, along with Staff’s responses. The foregoing comments were duly considered by Staff as it was designing the version of the NCP proposed in March 2024 (“NCP 24”), as described in part in Attachment A to the March 15, 2024 Revised Notice in Docket No. QO22050327.

In all instances below, the quoted material reflects what commenters suggested. Such material does not necessarily accurately reflect actual quoted material from the source document(s) referenced in each case.

Decarbonization / Electrification

Comment: The issue is to what degree, or whether, NJCEP should continue to support and incentivize equipment that is fueled by fossil fuels (“FF”)/natural gas vs. providing incentives for “all electric” homes only that use electric equipment for heating, hot water, and cooking. Comments were received on both sides of this issue.

1. The NGO Commenters and individual members of that consortium commented that the NGO Commenters support:
 - a. Prioritizing building electrification and avoiding “locking-in” building sector emissions from gas appliances. “[B]oth the 2019 Energy Master Plan (“2019 EMP”) and the Department of Environmental Protection’s (“DEP”) 80x50 Report call for the rapid decarbonization of the building sector through the widespread deployment of highly efficient cold-climate heat pumps and other electrification technologies. Specifically, Strategy 4 of the 2019 EMP recommends “the development of a transition plan to a fully electrified building sector and the incentivizing of the transition to electrified heat pumps, hot water heaters, and other appliances.”

The DEP’s 80x50 report is even more explicit, stating that the only way to achieve NJ’s climate goals are to “phase out reliance on fossil fuels and aggressively pursue electrification of heating, cooling, and appliances.” NJ’s energy policy is even clearer when it comes to new construction. The 80x50 report states that “ultimately the best opportunity to electrify is when a building is being built.” Moreover, the DEP found that “any delay in the building electrification transition will lead to stranded assets, higher costs, and limited flexibility to further reduce emissions.”

- b. Removing incentives for equipment that combusts fossil fuels.
 - c. An initial goal of 100,000 new and retrofit residential building units electrified by 2025 and 800,000 by 2030 as steps toward the NJ EMP goal of 90% electrification by 2050 and 50% reduction in GHG emissions by 2030. Additionally, the commenters supported the goal of 100% heat pumps (“HPs”) for all new construction (“NC”) by 2025. The NGO Commenters further recommended that the Board provide the requisite annual budget support to meet these goals.
 - d. Far more substantial incentives for cold climate heat pumps (“ccASHPs”), as well as a goal of 100% ccASHPs for all new construction by 2025 and a Green Jobs prototype program to manufacture ccASHPs in NJ.³⁴
 - e. Incentives should be proportional to the amount of carbon emissions saved.
 - f. Incentivization should only be used for Zero Energy Homes that include ccASHPs, EV chargers, etc.³⁵
2. NJNG, ETG, SJG, NJPGA, and Rate Counsel commented:
- a. Customers should retain the ability to choose their preferred energy sources, including appliances (e.g., gas vs. electric stove), especially if natural gas is cheaper.
 - b. At a minimum, ratepayers should not be paying at the same time for both new and upgraded natural gas infrastructure while also paying to move away from natural gas.
 - c. Efficient natural gas-fueled heat pumps and various types of compressed natural gas (“CNG”) equipment should be incentivized.

Response: The comments above include the EMP recommendation regarding the development of “a transition plan to a fully electrified building sector” and the incentivizing of the transition to “electrified heat pumps, hot water heaters, and other appliances” and NJDEP’s recommendation to “phase out reliance on fossil fuels and aggressively pursue electrification of heating, cooling, and appliances.” These recommendations anticipate a phase out of natural gas equipment and a transition to electric equipment.

Staff believes that the Board should develop incentives that will lead to a rapid transition to all-electric homes, particularly in new construction. However, Staff remains concerned that the market for all-electric homes has not yet fully evolved and that eliminating incentives for natural gas equipment now could result in new homes being built with less efficient natural gas equipment.

³⁴ Cold climate air source heat pumps are specifically designed to operate more efficiently in freezing temperatures than regular air source heat pumps.

³⁵ Zero Energy Homes are homes that annually produce an energy output equivalent to the annual energy input from renewable energy, resulting in a net-zero annual energy use.

Therefore, Staff is recommending an aggressive transition in the new construction market that includes higher incentives for electric measures, such as cold-climate heat pumps, for all electric homes and, in the short-run, for only the most efficient natural gas equipment. Staff believes that the revised NC program should work closely with builders to educate them on the costs and benefits of all electric homes and include aggressive outreach and marketing to spread the word regarding the benefits of all-electric homes. Staff also believes that the Evaluation, Measurement, and Verification (“EM&V”) Working Group should carefully monitor the performance of all-electric homes to assess comfort levels and costs and that the results of such assessments should be widely promoted to stimulate demand for all-electric homes. Staff recommends that the issue of offering incentives for natural gas equipment in NC should be revisited in the pending EE plans submitted for the Second Triennium.³⁶

Incentives

Comment: In general, the vast majority of comments expressed support for the proposed changes and direction of the NCP. Other comments included:

1. High-Performance Pathway: EAM Associates, MaGrann, and/or ReVireo (collectively, “Raters”) commented:
 - a. The High-Performance Pathway should include additional tiered incentives for increasing certification stringency. For example, Passive House should be incentivized at a rate higher than Zero Energy Ready Homes (“ZERH”), and Energy Star ASHRAE should be paid at the lowest rate; with the highest incentives provided for projects providing “true zero net energy performance.”
 - b. The historic imbalance between the P4P-NC Program and the RNC Program should be resolved (in some scenarios a project may receive higher incentives in the P4P-NC Program than in the RNC Program under the current incentive schedule);
 - c. The High-Performance Pathway should have much higher incentives compared to the other two (2) pathways, e.g., more than 2x the base amount, with the highest available incentives provided for projects that demonstrate “true zero net energy performance.”

Response: Through the High-Performance Pathway, the historical imbalance of incentives for multifamily between the P4P-NC Program and the RNC Program will be resolved by providing incentives for similar buildings without regard to whether they are residential or commercial. Staff agrees that incentives for this pathway should be significantly higher than the Bundled or Streamlined Pathway. Staff also agrees that within the High-Performance Pathway the higher efficiency projects with zero energy components should receive a higher incentive. NCP 24 proposes to accomplish this by introducing three incentive tiers to the High-Performance Pathway and eligibility for projects participating in the Streamlined or High-Performance Pathway to earn a greenhouse gas reduction bonus incentive, also tiered. This allows the program to incentivize projects making great strides toward the carbon reduction goals set in the EMP.

³⁶ The Second Triennium refers to the second three-year cycle of EE programs, from January 1, 2025 to June 30, 2027, to be implemented pursuant to the Clean Energy Act of 2018.

2. Incentive Structure: The Raters commented regarding the rate of the incentive, noting that the dollar per square footage (“\$/square foot”) rate may work in general but that the design should also include features to avoid incentivizing the construction of larger vs. smaller homes. The Raters also suggested that consideration be given to all housing types so as not to incentivize larger homes over smaller, more efficient homes, e.g., using a minimum or maximum per unit or diminishing sliding scale, such as using for multifamily a \$/square foot calculation and \$/unit calculation combined.

Response: Staff generally agrees and has capped its incentive calculation at 4,000 square feet for homes, even if the eligible home is, in fact, larger than 4,000 square feet.

3. Incentive Payments: MaGrann recommended phased incentive payments, particularly for multifamily. The Raters argued against paying Raters or consultants any direct incentives.

Response: Staff has determined that any possible advantage that might have been related to making progress payments is outweighed by the additional complexity and administrative burdens associated with progress payments. Instead, Projects participating in the subject pathway will receive a single incentive at the completion stage.

Staff agrees with the comments about direct incentives to Raters/consultants; NCP 24 does not provide a separate Rater/Consultant incentive.

4. Environmental Justice/LMI: Rate Counsel and other commenters were generally supportive of creating higher incentives for the environmental justice and/or LMI sectors, as much as 100% of the marginal cost of high efficiency electric measures. However, ReVireo commented that these higher incentives may not be worthwhile as many LMI developments must already comply with or exceed ENERGY STAR criteria to meet financing requirements.

Response: The NCP 24 seeks to increase equitable access to programs through enhanced incentives, targeted outreach, and other initiatives for Affordable Housing and/or non-residential projects located in UEZ/OZ or in areas of Industrial/High Energy Intensity. For example, NCP 24 proposes that Affordable Housing qualifies for an additional incentive of \$0.25/square foot. Staff will continue investigate whether there are further opportunities to better design the incentive for LMI housing and developments and projects, including those located in LMI census tracts, income-qualified OBCs, and UEZ/OZs.

5. Funding Priority: ReVireo commented that incentives should be allocated and prioritized for the High-Performance Pathway over the other pathways.

Response: At this time, Staff is not expecting any budget constraints that would require prioritization to any particular pathway. Additionally, the BPU can transfer funds from underutilized budget categories should the situation warrant this.

Timing

Comment: The Raters recommended all pathways be released at the same time, rather than in phases.

Response: Staff agrees.

Agency Coordination

Comment: ReVireo emphasized the importance of coordinating with the New Jersey Housing and Mortgage Financing Agency (“NJHMFA”) and the New Jersey Economic Development Authority (“NJEDA”), which often reference NJCEP program requirements, as well as interagency coordination across other BPU programs. ReVireo also suggested that BPU should work with the New Jersey Department of Labor and Workforce Development (“NJDOL”) to provide clarity on prevailing wage as it applies to NJCEP rebates, as this is arguably the largest obstacle to participation.

Response: Staff appropriately coordinates with the subject agencies on matters of mutual interest. Although Staff also appropriately coordinates with NJDOL from time to time, neither it nor NJDOL have the authority to amend a statute.

Codes

Comment: Owens Corning urged the Program to adopt EPA’s Single-Family Guidelines, version 3.2 (New Jersey is currently using version 3.1) and Multifamily New Construction, version 1.2, as well as the U.S. Department of Energy’s (“DOE’s”) ZERH, version 2.0. Owens Corning also encouraged the New Jersey Department of Community Affairs to include/develop a Passive House code. Ken Dolsky commented that BPU needs to set strong electrification building codes and at a minimum adopt the 2021, 2024, and 2027 editions of the International Energy Conservation Code (“IECC”) with no weakening amendments.

Response: NCP 24 proposes to require projects certifying through the EPA Energy Star using the Single Family New Homes approach to follow v3.2 at minimum, to require projects certifying through the EPA Energy Star MFNC approach to follow v1.1 at minimum, and projects certifying through the DOE to follow DOE’s guidance available on its website, [DOE Zero Energy Ready Home \(ZERH\) Program Requirements | Department of Energy](#) as to which version of its standards to use. As to electrification and energy codes, the Board does not have the jurisdiction to set or adopt them, but it will, as appropriate, support its sister agencies towards strengthening those that can contribute towards energy efficiency and clean energy.

Proxies

Comment: Several comments strongly supported including additional proxy certifications within the High-Performance Pathway, including:

1. **LEED:** USGBC commented that the Program could consider specifying minimum credits or points to reach target energy performance and reward deeper levels of efficiency. Some commenters were concerned that LEED lagged behind current state codes and new standards, and one commenter suggested using only the LEED Residential proxy.

Response: Staff agrees with USGBC’s recommendations. NCP 24 includes program-specific minimum requirements for this proxy.

2. **Passive House:** The Raters and the Passive House Network strongly supported the proposed inclusion of a Passive House proxy and wanted to ensure both PHI and Phius were included as proxy options in the Program.

Response: Staff agrees and included them in NCP 24.

Streamlined Pathway

Comment: Reactions were mixed to the proposal of introducing the Streamlined Pathway to bridge the difference between the Bundled Pathway and the High-Performance Pathway. EEA-NJ commented that this pathway was a perfect option to fill in the gap between low-cost prescriptive offerings and expensive whole-building offerings. However, EAM Associates and ReVireo expressed concerns that this pathway could end up being a step backwards for the Program and has no precedent.

Response: Staff determined that the Streamlined Pathway was a useful way to bridge the gap between the Bundled Pathway and the High-Performance Pathway, and it therefore included the Streamlined Pathway in NCP 24. To address the commenters' concern about taking a step backwards, the Streamlined Pathway will be available only for non-residential buildings.

Geothermal

Comment: Dandelion commented that geothermal heat pump systems should be included as an Advanced Measure Bonus, e.g., \$2,500 per ton.

Response: NCP 24 replaces the advanced measure bonus category with a Greenhouse Gas Reduction bonus. This comment therefore is moot.

Training and Education

Comment: Owens Corning and the Passive House Network commented that support and subsidized training and education, specifically of Passive House principles, should be an important part of this initiative.

Response: Staff generally agrees. NCP 24 includes support for Workforce Development, including as to Passive House.

Other

Comment: Rate Counsel and the NGO Commenters recommended that the Program should leverage design and lessons learned from other jurisdictions, specifically Massachusetts' residential new construction.

Response: Staff agrees. In developing the NCP, it considered other jurisdictions' programs, especially New York's, and it will continue to evaluate those programs for potential improvements to NJCEP.

Comment: Kirk Frost suggested the Board create a clearer website to better navigate the Program options.

Response: Staff is pursuing the procurement of a contractor to redesign the NJCEP website.

Comment: NJUA suggested that the phase out of single measure incentive and the development of bundles should be coordinated with the utilities.

Response: The Program Administrator and Staff regularly coordinate with the utilities on matters of mutual interest.

Comment: Rate Counsel urged Staff to consider availability of other (non-ratepayer) funding sources, such as federal funds, to support this program.

Response: Staff regularly searches for non-ratepayer funding to support NJCEP.

Comment: NJUA and SJG requested re-review of the “Gut Rehab” definition as it pertains to participation in NJCEP versus utility programs.

Response: The definition of “Gut Rehab” -- substantially renovated buildings -- was previously discussed and agreed upon between the BPU and the utilities. The current definition is set forth among other places here: <https://www.njcleanenergy.com/commercial-industrial/new-construction-buildings>.

Comment: Kirk Frost commented that the Board should provide rebates that enable microgrids, program support for hydrogen-related projects, and rebates and incentives for small wind turbines.

Response: The Board has sponsored a program that provides incentives for certain microgrids, and its Combined Heat and Power - Fuel Cells has certain features that also encourage the development of microgrids. Additionally, the Board and its Staff will continue to evaluate additional programs that would support various types of renewable energy.

Comment: 50 x 30 suggested that the Program expand sources of on-site renewable energy to include community solar, long-term contracts for renewable energy credits, power purchase agreements, and renewable content of electricity delivered by the local utility.

Response: As NCP evolves, Staff will continue to evaluate some of the commenter’s suggestions.

Comment: Kirk Frost requested consideration of incentives based on the quantity percentage of outdoor water use that is provisioned by precipitation collection.

Response: NCP 24 is focused more on EE and RE than on water conservation. That said, Staff may, as NCP evolves, consider adding water conservation measures such as those suggested by the commenter.

Comment: Kirk Frost suggested incentives for using 3D printing technologies for new construction.

Response: At present, Staff does not see how the use of such technologies would contribute towards EE or GHG reductions.

Attachment B

On March 6, 2024, Staff posted on the NJCEP website and distributed to the EE and RE listservs a Notice regarding the proposed New Construction Program. Comments were accepted through March 27, 2024. Written comments submitted by Anthony Harrington, Briana Morales, Christine Liaukus, Dandelion Energy, Danielle Serronico, EAM Associates, EEA-NJ, Hilary Padget, Iljoong Kim, Jacob Brown, Jason Battles of Fluence ("Fluence"), Joan Maccari, Joseph Graham, Justin Taylor, Kelley Energy Management, LLC, MaGrann, Matthew Ahearn, Michael Bianchi, Michael Winka, Mikhail Sagal of TSRGrow ("TSRGrow"), New Jersey Chapter of the Sierra Club ("Sierra Club"), NJNG, Rate Counsel, ReVireo, Ryan Dougherty of Geothermal Exchange Organization ("Geothermal Exchange Organization"), Tad Everhart, Ticiana Jardim Marini, and William Amann of USGBC are summarized below, along with Staff's responses.

General

Comment: Ticiana Jardim Marini submitted comments in support of the proposed New Construction Program. Ms. Marini commented that the Passive House incentives are "right on track" and thanks the BPU for including them. Ms. Marini requested that embodied carbon analysis be included as part of the GSC Pilot Program. Recognizing this would add another layer of criteria to the Program, Ms. Marini stated her belief that it will be a useful step in getting a full carbon account of new construction. Ms. Marini provided links to two (2) resources from the Carbon Leadership Forum Website detailing the importance of recognizing and accounting for embodied carbon.

Response: Staff appreciates the support and will further investigate the concept of embodied carbon prior to launch of the Program.

Comment: Ryan Dougherty, on behalf of Geothermal Exchange Organization, wrote a letter to support inclusion of Geothermal Heat Pumps ("GHP") in the NCP. The Geothermal Exchange Organization suggested that the BPU and TRC should support GHPs by including geothermal professional development courses within the pre-approved workforce development courses listed for the NCP. Courses suggested to be included were the IGSHPA Accredited Installer course and the IGSHPA Certified GeoExchange Designer course.

Commenters suggested that the Program be modified to "allow building developers to receive both NCP incentives and Utility Energy Efficiency Incentives." Commenters stated that the BPU should revise this guideline to make exceptions for GHPs based on the significant grid, emissions, and energy savings benefits of geothermal systems. Further, commenters suggested avoiding double counting of incentives. In addition, the commenters proposed that the BPU "require energy modeling under the compliance pathways to exclude the GHPs from the performance calculations, allowing the GHP system to receive the energy efficiency program rebate while the rest of the building receives the NCP incentive based upon the remaining performance features of the building. This will provide important flexibility to builders in choosing their Heating, Ventilation, and Air Conditioning ("HVAC") systems and will maximize the synergies between the energy efficiency and NCP programs."

Response: The proposed Workforce Development component of the Program allows courses not listed to be incentivized with prior program approval. Staff will investigate the suggested courses for inclusion on the pre-approved list.

Regarding the comment on incentives, Staff would like to clarify that any HVAC built in connection

with a new construction project may receive incentives through the new construction programs and cannot also receive incentives through the Utility programs. Additionally, the proposed NCP is designed to reward overall building efficiency and performance and does not incentivize any one specific technology over another. Having said that, Staff recognizes the benefits of ground source heat pumps and will discuss internally what additional funding opportunities may be developed specific to this technology. Staff looks forward to Geothermal Exchange Organization's future input on this effort.

Comment: Heather E. Deese submitted comments on behalf of Dandelion Energy, supporting the proposed NCP and suggesting some modifications, as follows: 1) propose that the Program add the GHG reduction bonus for residential building types; 2) make the GHG reduction bonus calculation/tool publicly available, 3) for the Bundled Pathway, increase value of points for ground source heat pumps

Response: Staff thanks Dandelion for their support and recognizes the benefits of ground source heat pump technology. Regarding the suggested modifications, Staff would like to clarify that the GHG reduction bonus already applies to the residential sector projects that participate in the High-Performance Pathway and that the GHG conversion methodology and associated calculator will be publicly available along with other program documents ahead of program launch. Finally, the points outlined for the Bundled Pathway were derived from American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") 90.1-2019, Addendum AP, and no modifications were made to the point values. Only minimum point targets were set by the Program. Therefore, at this time Staff would not recommend modifying point values so as to not conflict with the ASHRAE Addendum and the work that went into developing those values.

Comment: Michael Winka stated that the revised compliance filing is a significant upgrade over the initial draft and provides comments intended to assist in the transition to 100% net zero energy in the New Construction market in NJ. Mr. Winka suggested that the BPU take an approach to manage programs for integrated whole buildings, rather than managing programs for EE, EV, and solar separately. Mr. Winka stated that, in general, all New Construction pathways should be expanded to include the objectives of Grid-Interactive Efficient Buildings ("GEB") to advance flexible load management. Furthermore, Mr. Winka commented that GEB will be included in the next IECC and ASHRAE building energy code updates after 2024. Mr. Winka suggested another pathway or a clean energy pilot be added to the NCP to support a fully clean energy integrated and holistic approach that requires and mandates above code high efficiency shell measures, above code building electrification, on-site solar, on-site storage, EV, EV charging, and GEB. Furthermore, Mr. Winka suggested that the Bundled Pathway should require at least one non-ECM, the Streamlined Pathway should require at least one non-ECM, and the High-Performance Pathway mandate the use of non-ECMs and suggested that the ECMs should include the following: "smart thermostat, lighting controls, daylighting or other wireless sensors and controls and/or building automation systems."

Response: Staff appreciates the support and generally agrees that taking a holistic approach to programs makes a lot of sense. However, Staff believes that coordination and groundwork between the NJCEP and utilities and other State programs/agencies need to occur before this can be achieved. For example, the installation of equipment that can be controlled by utilities to manage the grid requires the establishment of equipment standards which has not yet happened in NJ. A holistic approach will also require an analysis of existing program rules and incentives to ensure there is no double dipping between programs and that incentives are properly set.

Staff believes that the GSC offers an opportunity to further explore the potential benefits of

including GEB measures in the NCP and for taking a more holistic approach to a program design that includes measures like solar and EV chargers rather than having these measures addressed in separate programs. Additionally, the NCP proposes to utilize proxies (nationally accredited programs) to meet requirements for eligibility, and it is our understanding that many, if not all, of the proxies are also working towards the same goals. Staff expects that smart thermostats, controls, building automation systems, etc., are or will start becoming a requirement for participation in these programs, especially with future iteration of energy codes.

Comment: William Amann, on behalf of the USGBC and separately on his own behalf, submitted comments supporting the new program proposal and the acceptance of LEED Certification as a compliance path. This comment also suggested that the language used in the filing in regards to submitting documentation that affirms buildings have met proxy requirements needs to state that “proof of certification” should be submitted. This same comment was received in a letter dated March 27, 2024 submitted by Matthew Kaplan of ReVireo, and from EAM, MaGrann and ReVireo in their joint letter of comments dated March 27, 2024.

Response: Staff appreciates the support and agrees that proof of certification should be required. Staff will coordinate with TRC to require proof of certification as a requirement in the Program Guidelines.

Comment: John M. Kolesnik, Esq., on behalf of the EEA-NJ, expressed enthusiasm for the proposed improvements to the NCP that lower barriers to entry and increase EE and environmental performance. EEA-NJ supported the single point of entry, the utilization of a whole building approach across all three pathways driving projects to pursue electrification and decarbonization measures, the GHG reduction bonus, the GSC, and the inclusion of the Workforce Development Reimbursement. EEA-NJ suggested including a definition of “square footage” to ensure consistency or to consider a dollar per dwelling unit incentive rate.

Response: Staff appreciates the support and will add a definition to the Program’s rules that clearly outlines what is meant by “square footage” of a building as it pertains to incentive calculations.

Comment: NJNG supported the NCP’s redesigned goals and methods to increase EE and provided comments intended to enhance NCP by including more options to reduce GHG emissions and provide more opportunities for the customer, developer, and contractor to achieve energy savings. NJNG emphasized the importance of ensuring NCP still encourages and provides robust incentives for comprehensive projects and for commercial and residential customers to maintain their right to choose efficient, affordable, and reliable direct use of natural gas as an energy source. NJNG stated that roughly 30-40% of NJNG residential customers rely on portable backup generators during power outages, with many more options for stand-by natural gas generators for home, business, and critical infrastructure back-up power. NJNG indicated that as one of the Energy Master Plan’s goals is to increase NJ’s overall EE, the NCP should continue to include incentives for highly efficient gas equipment in all NCP pathways, including gas heat pumps. Finally, NJNG highlighted that the most recently updated IECC edition (2024) still allows for natural gas equipment to be included and projects are still expected to show significant savings opportunities in residential (6.5%) and commercial buildings (10%).

Response: Staff appreciates the feedback and notes that only the Bundled Pathway excludes incentives for gas equipment. Both the Streamlined Pathway and High-Performance Pathway continue to incentivize high efficiency gas equipment within the larger building design. Staff believes this approach balances the State's desire to start the transition towards carbon-free buildings while recognizing current market realities.

Comment: Sierra Club submitted a letter supporting the proposed NCP, citing that it is happy to see the Program aligns with Goals 3.1 and 4.1 of the 2019 Energy Master Plan and that it supports the Governor's Executive Order 316 targets. Sierra Club stated that it was pleased to see the Workforce Development component added, citing that the most common comments received during their Building Electrification webinars are that it is hard to find knowledgeable HVAC professionals to complete the entire weatherization and electrification of a building project, and specifically stating that finding an HVAC vendor to bid a cold climate heat pump to provide whole house heat has been especially challenging. Sierra Club suggested that trainings provided through the NCP also support retrofit applications. Sierra Club specifically called out the length of time it takes to complete a retrofit and expressed hope that the Program can provide controls that limit the amount of time the work has to be completed. Furthermore, Sierra Club maintained that Zero Energy construction must become part of the building code and programs need to stop providing incentives for gas equipment. Lastly, Sierra Club proposed that the "New Construction Program should require electric readiness for all appliances, including electric heat pump space heaters and heat pump water heaters, and require that construction be both solar ready and EV ready."

Response: The NCP Workforce Development component is intended to support the market for general success of the NCP and its offerings and includes or will include the types of training suggested. Staff notes that retrofit programs are currently managed by the utilities and will take the "retrofit" related comments into consideration in its review of the utility Second Triennium filings currently pending before the Board. The High-Performance Pathway supports the DOE Zero Energy Ready Home and Passive House certifications which we understand have established goals for electric and EV readiness. Staff notes that comments regarding building codes are beyond the scope of this proceeding and are under the jurisdiction of the Department of Community Affairs; however, Staff will continue to explore the potential for making "electric readiness" for all appliances a future program requirement.

Comment: Matthew Kaplan of ReVireo suggested the use of GHG emissions as the metric the NCP should be using rather than site energy. Mr. Kaplan suggested that it is unclear if ENERGY STAR/DLC lighting certifications will be required and suggested they should not be considering the EPA phase out plan. Mr. Kaplan suggested a rebate for achieving ENERGY STAR Commercial Building based on benchmarking and a pre-design bonus, like the current Pay for Performance program. Mr. Kaplan opined that the Streamlined Pathway will confuse the marketplace, disconnect participants from energy consultants, and cannibalize participation in the High-Performance Pathway. Mr. Kaplan suggested that the Sketchbox software should be used to predict savings for the pre-design bonus he suggested for the High-Performance Pathway. Mr. Kaplan opposed the use of a simplified performance rating method as the basis for awarding incentives.

Response: Staff believes that using GHG emission reductions as a metric for designing programs and incentives is a concept that merits further consideration. However, transitioning from metrics based on energy savings to ones based on GHG emissions requires thoughtful consideration of many of the current building blocks such as the Technical Resource Manual ("TRM") which includes formulas for estimating energy savings, cost effectiveness tests, forecasts

of future grid emission levels and importantly, may require legislative changes since current law sets targets based on reductions of retail sales of electricity and natural gas. Staff notes that the Streamlined Pathway and High-Performance Pathway of the proposed Program include incentive bonuses for reaching set GHG reduction targets.

Staff will take Mr. Kaplan's suggestions regarding requirements such as lighting certifications into consideration in the development of Program Guidelines.

Mr. Kaplan recommended revising the Program to include pre-design and post benchmarking bonuses similar to what is included in the existing P4P-NC Program. The current program design which includes pre- and post-bonuses results in a multistep process that can take several years from the submittal of an initial application until the final incentive is paid. The NCP was designed to simplify this process and to shorten the time for completing an application. Staff notes that the proposed incentives in the NCP result in a single payment that is designed to exceed the total of the three (3) incentive payments in the current program in most, if not all cases.

Mr. Kaplan opined that the proposed Streamlined Pathway will confuse the marketplace, disconnect participants from energy consultants, and cannibalize participation in the High-Performance Pathway. Staff disagrees. The Streamlined Pathway is intended to offer a pathway to C&I projects that have historically not participated in the NCP. Staff believes that projects that have historically participated in the High-Performance Pathway (i.e., the legacy P4P-NC Program) will continue to do so due to the significant increase in incentives a project would get by moving up from the Streamlined Pathway to the High-Performance Pathway. The intent is that the Streamlined Pathway will result in projects participating in the Program that would not have participated absent this pathway, and for the Program through training and coaching to encourage projects to consider the increased benefits of participating in the High-Performance Pathway. Staff will monitor the impacts of the Streamlined Pathway and evaluate whether to continue it into the future and, if so, whether it should be revised in light of those impacts. Staff notes that, based on comments made at the July 2022 stakeholder meeting, the proposed NCP was modified such that residential projects are not eligible for the Streamlined Pathway.

Comment: EAM Associates, MaGrann, and ReVireo jointly submitted comments for consideration. The organizations were in favor of the size-based limitations for calculating incentives for the single family and townhome units and suggested that multifamily units have the same restriction and recommended using 1,000 square feet for a multifamily unit. The organizations also suggested that a definition of “total building eligible square feet” be included and that a definition of affordable housing be further clarified in certain respects, such as where there is a mixed income profile or “workforce housing.” With respect to the proposed GHG reduction bonus, which they were in favor of, they suggested the use of the Home Energy Rating System CO2 calculation, which is based on American National Standards Institute Standard ICC301 2022, Addendum B. The organizations also emphasized the need to ensure that electric resistance equipment is not disproportionately incentivized through this bonus and suggested exploring the Carbon Index or similar approaches. The organizations recommended that the expiration date for multifamily buildings be changed to 3-years with the ability to add two (2) 6-month extensions due to the very long design and construction timelines and the increasingly complex financing package developments and approvals. The organizations suggested that the BPU consider claiming attributions associated with code and market impacts in its evaluation of program cost effectiveness, such as commissioning of systems and the like. The organizations provided a link to a paper written about how Massachusetts has successfully been able to do so. The organizations strongly urged a proactive approach associated with future code updates allowing the Partners at least 90-days from the date which modifications to the code are finalized before requiring them to switch.

Response: Staff appreciates the detailed feedback provided and notes that, due to the proposed incentive design which is essentially on a \$/square foot basis, it is harder to limit the size of units in multifamily buildings since many of these buildings will also have non-residential spaces that need to be captured for incentive calculations. Adding a restriction to the size of each unit will make the computation of the eligible square footage of the building more difficult and add a layer of risk in miscalculation of the building. Staff concurs with the other comments and will coordinate with the Program Manager to evaluate and potentially include more detailed requirements in the Program Guidelines, such as a methodology for calculating GHG emissions, a more detailed definition of square footage, and a more detailed definition of affordable housing. Staff concurs with the comments suggesting claiming savings associated with code and market impacts and is currently in discussions with the EM&V Working Group and others to explore potential NCP components and evaluations needed to claim such savings. Staff will consider the comment requesting a 90-day grace period subsequent to the implementation of any new building code at the time any new codes are adopted based, in part, on the specific requirements of any new code.

Staff concurs with the comment that the incentive commitment expiration date for multifamily buildings be changed to three years, and, given the desire to have all projects submit applications early in the design process, recommends that the currently pending proposed FY24 TRC revised compliance filing be modified to provide an incentive commitment expiration date three years from the date of approval for all projects in the High-Performance Pathway.

Comment: EAM Associates, MaGrann, and ReVireo expressed concerns about prevailing wages restricting participation for buildings taller than 4-stories, citing the total project cost could increase by 30-50%, far outweighing the incentives offered by the program. The organizations suggested exemptions for residential buildings of all types up to 6-stories be added to help maximize the energy cost savings for an increasing segment of New Jersey renters.

Response: The exemption that is the subject of the comments is set forth in a statute and is limited to “multi-family home[s] of four stories or less.” N.J.S.A. 48:2-29.47. The Board does not have the authority to amend a statute and therefore will not be implementing this comment.

Comment: Rate Counsel included a comment to the effect that it is unclear how the existing programs will transition over to the NCP without duplications and overlapping costs.

Response: If the NCP is approved by the Board, Staff will coordinate with the Program Manager to develop specific dates for when the Program will start accepting applications for the new program and cease accepting applications for the existing programs. Staff will work with the Program Manager to develop notices to industry participants announcing these dates. The intent is to provide projects currently under development with sufficient time to submit an application before the old program is closed to new applications. Consistent with long-standing Board policy, existing program incentives/rules in place on the date an application is submitted will remain with the project for the duration of the application. TRC, the current Program Manager, will manage both the old and new programs and its fees for managing the programs will be consistent with its existing contract so Staff does not anticipate any overlapping costs.

Passive House

Comment: Michael Bianchi, Joan Maccari, Jacob Brown, Joe Graham, Anthony Harrington, Hilary Padget, Danielle Serronico, Christine Liaukus, Iljoong Kim (AIA, LEED-AP), Justin Taylor, Briana Morales, and Matthew Ahearn expressed their support for the NCP, especially the incentives it provides related to Passive House certification and related training reimbursement. The commenters noted that Passive House is one of the most effective means to reducing residential energy usage without compromising safety and comfort. Many of the commenters cited that similar pathways and incentive programs in New York, Massachusetts, and Colorado are already resulting in safer, more energy efficient and resilient buildings. Mr. Harrington and Ms. Padget are both architects and teach courses on Passive House at the New Jersey Institute of Technology. Mr. Kim is an Architect and LEED Accredited Professional. Mr. Taylor works as an Architectural Project Manager and Energy Modeler. Mr. Ahearn is a certified Phius Verifier.

Response: Staff appreciates the support.

Comment: Tad Everhart suggested including EnerPHit Standard as a passive house method of compliance.³⁷

Response: It is Staff’s understanding that EnerPHit is for retrofit projects only. The NCP is limited to new construction and gut rehabilitation projects with other retrofit projects served by the utility programs. Staff will investigate further whether EnerPHit is a reasonable certification that should be included in a future modification to the Program.

Indoor Agriculture/Horticulture

Comment: Fluence commented that the proposed Bundled Pathway incentive rate would provide a significantly lower incentive to growers compared to the current C&I New Construction Horticultural Lighting incentive, while also requiring these customers to include additional

³⁷ The EnerPHit Standard is a Passive House Standard intended for refurbishment projects, allowing for more flexibility than the traditional Passive House Standard to accommodate retrofitting challenges.

measures. While Fluence is not opposed to a \$/square foot incentive rate, it suggested that the proposed program incentive would need to be about \$10/square foot to provide comparable incentives to the current C&I New Construction Horticultural Lighting incentive. Additional recommendations from Fluence included changing the points system so this sector could qualify for incentive with only a lighting project. TSRGrow also commented expressing concern for lack of lighting-only incentives for horticulture spaces and stated that the incentives for high energy use spaces are too low. TSRGrow also commented that incentives be included for integrated controls.

Kelley Energy Management, LLC (“Kelley”) expressed similar concerns as Fluence and TSRGrow that the \$/square foot rate is too low to encourage facilities to install high-efficiency lighting. Additionally, Kelley stated that the \$/square foot incentive structure will be detrimental to these types of facilities as many of them grow vertically rather than horizontally and the current proposed incentive structure does not consider this. Kelley provided an example where they have a 2,500 square-foot facility that designs a single-tier grow area and may use 100 light fixtures, whereas a two-tier may use 200 light fixtures, and a three-tier would use 300 light fixtures, but the incentive stays the same because it is based on the 2,500 square footage of the facility. Kelley noted that indoor agriculture facilities are unique such that they can use the vertical space and be more efficient than building a larger square-footage building.

Response: Staff appreciates input from Fluence and TSRGrow with respect to the horticulture market. The existing incentive programs have been in place for over 15 years and have evolved over time to include new technologies and savings opportunities. The proposed NCP considers current market trends, such as electrification and decarbonization, which strive for a comprehensive “whole building” approach to EE. Staff would like to clarify that indoor agriculture is not limited to the Bundled Pathway but can also apply for the Streamlined Pathway and High-Performance Pathway, which includes bonus incentives for GHG reductions and enhanced incentives for high energy intensive use building types.

Staff acknowledges the gap between the proposed NCP incentives and the current C&I New Construction Horticultural Lighting incentive; however, Staff believes that additional research is required prior to recommending revised incentives for this market sector. Staff will review current available market information on horticulture lighting and will review the suggestions proposed above to determine what adjustments, if any, should be made to the proposed Program. Consideration will be given to the value of Design Lights Consortium (“DLC”) certification in ensuring installation of quality products, over cheaper or less efficient options. The intent is to conduct this additional research quickly so that any proposed changes can be included in the TRC Compliance Filing for FY25, which Staff expects to provide to the Board for review in approximately June 2025, so that any changes could be made prior to any transition from current programs and incentive levels.

Garden State Challenge

Comment: Justin Taylor, an Architectural Project Manager and Energy Modeler, included a comment supporting the GSC, indicating he believes that providing funding early in the schematic design phase has the potential to spur innovation in the marketplace. Mr. Taylor suggested that the student classification requirement be amended to include young professionals, under 30, that have graduated from a New Jersey higher education institution stating that, “architecture school is often arduous and students wouldn’t have the time to fully participate in a professional project until the summer.” Mr. Taylor stated, “If the student category could be expanded, it could prove very beneficial for young professionals to participate in all parts of an architectural project early in

their careers and would be another incentive for them to learn about Passive House building strategies.”

Response: Staff appreciates these comments and will consider them when developing specific guidelines regarding the student participation, which might, among other things, include recent graduates being treated as “students.”

Comment: Michael Winka suggested that the GSC Pilot project must specifically include high efficiency shell measures, building electrification technology and equipment, on-site DER solar, on-site DER storage, EV, EV charging, and GEB in a holistic and integrated approach.

Response: Staff will take these comments into consideration in developing specific Program Guidelines. However, an important concept of the program design is to allow applicants to propose any measures or combination of measures that meet program objectives.

Comment: In the joint letter submitted by EAM Associates, MaGrann, and ReVireo, they indicated that they support this initiative and have clients who have indicated they would be interested in participating. The commenters expressed concern that it may be difficult for customers to commit to the first or second rounds of the GSC without knowing the certainty of passing onto the subsequent rounds. The commenters expressed concerns with the deadlines set forth in the proposed GSC, claiming that 18-months with two (2) 6-month extensions for the construction phase would not work for multifamily, especially affordable multifamily housing, because of the complexity of the financial packages. The commenters suggested at least 24 months with up to two (2) 6-month extensions would be necessary to adequately incentivize potential participants, and commented that it would be even simpler to simply set the construction schedule at three years from the date of approval. The commenters also suggested another category be established specifically for LMI/affordable housing and that the projects be automatically approved for \$650K in rounds 1-3 with thresholds that must be met to advance from round one to the next, “but once you’re in, you’re in.”

Response: The GSC is a competitive pilot program. Staff believes the competitiveness will encourage the design teams to think outside the box or develop new processes to reduce construction periods. Staff will research and consider recommendations for longer construction periods and for a separate, non-competitive track, for LMI/affordable housing.