Agenda Date: 2/12/25
Agenda Item: 8B

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 MEDIUM AND HEAVY DUTY ELECTRIC VEHICLE CHARGING ECOSYSTEM	))))	ORDER DENYING MOTION FOR RECONSIDERATION DOCKET NO. QO21060946

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Neil Hlawatsch, Esq., Assistant General Counsel, Atlantic City Electric Company
Margaret Comes, Esq., Associate Counsel, Rockland Electric Company
Michael Martelo, Esq., Assistant General Counsel, Jersey Central Power & Light Company
Stacey M. Mickles, Esq., Associate Counsel - Regulatory Law, Public Service Electric and Gas Company

BY THE BOARD:

BACKGROUND:

The New Jersey Electric Vehicle Act ("EV Act" or "Act") was signed into law on January 17, 2020. By the Act, the New Jersey Legislature determined that it was in the public interest to establish goals for the widespread use of plug-in electric vehicles ("EVs") in New Jersey's transportation sector and to support their increased use by providing incentives for the purchase or lease of EVs and related charging equipment. Accordingly, the EV Act set forth a series of goals along with a comprehensive framework to promote the use of light-duty plug-in electric vehicles within the State.[1] The Act authorized the New Jersey Board of Public Utilities ("Board") to adopt policies and incentive programs to advance the goals of the Act[2] and, at N.J.S.A. 48:25-3(a)(10), directed the New Jersey Department of Environmental Protection ("NJDEP"), in consultation with the Board, to establish other goals for the electrification of medium-and-heavy-duty ("MHD") vehicles and the development of related infrastructure, consistent with those to be established for light-duty vehicles.

[1] N.J.S.A. 48:25-1, et seq.

[2] N.J.S.A. 48:25-3(b).

Consistent with the EV Act's goals and direction, the Board issued an Order establishing minimum filing requirements ("MFRs") for light-duty, publicly-accessible EV charging.[3] The light-duty MFRs required each investor-owned electric distribution company ("EDC") to propose: a shared responsibility model with respect to publicly-accessible EV charging infrastructure; rate structures to address demand charges, residential EV charging, and multi-family dwellings rates; rate structures to encourage networked, managed charging; equitable access to the EV ecosystem in overburdened communities; mapping that details areas which are best suited for EV infrastructure build-out on a regular basis; outreach and education plans; as well as a list of Make-Ready investments made to date and all pending applications.[4] The utility programs that resulted from those MFRs have increased access to EV charging in corridor and community locations, workplaces, and multi-unit dwellings ("MUDs"), addressed obstacles to the use of EVs, and have provided valuable data on residential and commercial use of EVs. The light-duty MFRs utilized a shared responsibility model that aims to encourage private investment through incentives for the Make Ready[5] from EDCs and from the State for specific uses of chargers.[6]

Since 2021, the Board has provided charger and installation incentives for specific charger uses, pursuant to the EV Act, as additional efforts to encourage EV adoption in New Jersey. The Board has modified such incentives over time to adapt to utility-administered incentives.[7] Subsequently, the Board and NJDEP moved to provide incentives in nearly all use cases for chargers only, as utilities provided their own incentives for Make-Ready infrastructure.[8]

In May 2024, the NJDEP released its "MHD Roadmap," which addressed the requirements set forth at N.J.S.A. 48:25-3(a)(10) directing the NJDEP to collaborate with the Board to establish "goals for vehicle electrification and infrastructure development that address [MHD] on-road diesel vehicles and associated charging infrastructure."[9] The MHD Roadmap provides an overview of

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[3] In re Straw Proposal on Electric Vehicle Infrastructure Build Out, BPU Docket No. QO20050357, Order dated September 23, 2020 ("September 2020 Order").

[4] New Jersey's investor-owned EDCs are: Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Public Service Electric and Gas Company ("PSE&G"), and Rockland Electric Company ("RECO").

[5] Make-Ready refers to "Charger ready," which is defined in the Act as the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of electric vehicle service equipment, including, but not limited to, Level Two EVSE and DC Fast Chargers. N.J.S.A. 48:25-2.

[6] The 2019 Energy Master Plan ("EMP") highlights that EDC involvement under a shared responsibility model provides "significant opportunity for widespread charging deployment across multiple transportation modes and sectors (i.e., residential, multifamily, workplace, fleets, and public DC fast charging), using both rate-based and non-rate-based solutions, and resulting in diminished consumer 'range anxiety' and increased EV adoption rates."

[7] See In re the Clean Energy Programs and Budget for Fiscal Year 2024, BPU Docket No. QO23040236, Order dated June 29, 2023; In re the Clean Energy Programs and Budget for Fiscal Year 2023, BPU Docket No. QO22020113, Order dated June 29, 2022; In re the Clean Energy Programs and Budget for Fiscal Year 2022, BPU Docket No. QO21040720, Order dated June 24, 2021; and In re the Clean Energy Programs and Budget for Fiscal Year 2021, BPU Docket No. QO20080539, Order dated September 23, 2020.

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

[9] NJDEP, A Roadmap to Zero-Emission Medium and Heavy-Duty Vehicles in New Jersey (May 2024) https://dep.nj.gov/wp-content/uploads/drivegreen/pdf/mhd-roadmap.pdf ("MHD Roadmap").

New Jersey's MHD vehicle sector and provides a framework for transitioning to zero-emission vehicles ("ZEVs").[10] The roadmap outlines potential near- and mid-term strategies needed to fully decarbonize New Jersey's MHD Vehicle sector. New strategies include mapping the additional charging demand from MHD Vehicle electrification, establishing a workforce development program, funding new charging technologies, and creating a technical assistance program to help fleets transition to ZEVs. New Jersey will also continue and expand upon existing programs aimed at addressing funding gaps for ZEVs and charging infrastructure.

As the MHD Roadmap was being developed by NJDEP, the Board initiated its own proceedings to address fleet and MHD EV adoption in New Jersey, which included several technical panels, the release of two (2) separate straw proposals dated June 30, 2021, and December 22, 2022, as well as a stakeholder meeting on January 17, 2023.[11] Board Staff ("Staff") reviewed and considered all stakeholder comments received in connection with both straw proposals and used stakeholder input, in addition to NJDEP's MHD Roadmap, to further develop and modify a framework for EDCs to propose programs for charging infrastructure for fleet and MHD EVs.

Following these developments and in order to fulfill its obligations under the EV Act with respect to MHD EVs, the Board issued an Order on October 23, 2024, adopting MFRs that direct New Jersey's investor-owned EDCs to propose programs calculated to expand access to charging for MHD EVs.[12] Specifically, the Board directed each investor-owned EDC to file an MHD Plan (outlined in Exhibit 2 of the October 2024 Order) with the Board within 120 days of the effective date of the October 2024 Order. The MHD Plan requires each investor-owned EDC to propose programs, subject to Board approval, that are calculated to expand access to charging for MHD EVs.

Similar to the September 2020 Order, which established the Light-Duty MFRs, the October 2024 Order specified that each investor-owned EDC may recover the costs of incentives associated with preparing a site provided that the EDC owns the equipment installed. The October 2024 Order also stated that, where an EDC is preparing a site to install an EV charger at the request of an unaffiliated Electric Vehicle Supply Equipment ("EVSE") infrastructure company, that infrastructure shall be deemed "used and useful," even if the Make Ready is not immediately used.[13] The Board ordered each utility to show that it was prudent in the manner in which it prepared the site for charger infrastructure.

The MHD MFRs, similar to the Light-Duty MFRs established in the September 2020 Order, utilize the "shared responsibility" model, whereby the EDCs' role is primarily to "Make Ready" a site for publicly-accessible EV infrastructure. In practice, this means an EVSE infrastructure company or Site Host would notify their appropriate EDC of their intention to install EVSE at a specific location. The EDCs would then develop and own the traditional utility infrastructure, such as transformers, utility services, and meters necessary for the charging stations, etc. More generally, each EDC

[10] The MHD Vehicle sector, only including vehicles, is a subset of the MHD sector which includes both vehicles and the infrastructure to support them.

[11] Notice, In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946 (June 30, 2021); Notice, In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946 (August 5, 2021); and Notice, In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946 (December 22, 2022).

[12] In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946, Order dated October 23, 2024 ("October 2024 Order").

[13] See October 2024 Order at 9.

would be responsible for the wiring and backbone infrastructure necessary to enable a robust number of Charger-Ready locations, while non-utility entities including site owners, property management companies, and EVSE infrastructure companies, would be responsible for installing, owning and/or operating, and marketing EVSE using private capital.

Motion for Reconsideration

On November 7, 2024, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a motion for reconsideration of the October 2024 Order, pursuant to N.J.A.C. 14:1-8.6 ("Motion"). In its Motion, Rate Counsel argues that the Board's decision to deem Make-Ready infrastructure as used and useful before it is actually being utilized by customers for its intended purpose is incorrect as a matter of law, as Make-Ready infrastructure will not be utilized to provide safe and adequate utility service until an EV charger is installed.

Rate Counsel contends that the used and useful principle has long been the law in the State of New Jersey. Rate Counsel states that the New Jersey Supreme Court held that "[t]he rate base is the fair value of the property used and useful in the public service."[14] Rate Counsel argues that, similarly, the Board has, for decades, followed the used and useful principle and provided citation to numerous Board orders which cited to the principle. Rate Counsel further notes that the Board's regulations at N.J.A.C. 14:3-2A.6(a) define "in service" as "functioning in its intended purpose, is in use (that is, not under construction) and useful (that is, actively helping the utility provide efficient service)."

In the Motion, Rate Counsel argued that the Board's decision in the October 2024 Order is a violation of the used and useful principle because the Make-Ready infrastructure, once installed, will not be functioning in its intended purpose since the intended purpose of customer-side Make Ready is to facilitate the connection between the meter and the EV charger. Rate Counsel contends that the MFRs contained in the October 2024 Order defined "Make Ready" in pertinent part as "the pre-wiring of electrical infrastructure . . . to facilitate ease and cost-efficient future installation of EVSE, including . . . chargers . . ." 'Make Ready' is synonymous with the term 'Charger ready'." Rate Counsel asserts that the Make-Ready infrastructure, although constructed, is neither used nor useful before connection to the charger since service cannot yet be provided. Rate Counsel argues that, should costs be recovered before connection to a charger, the only party who benefits from not-yet-used Make-Ready infrastructure recovered through rates are the EDC's shareholders who will earn a return on an investment that is not used and useful.

Rate Counsel further argues that the October 2024 Order creates an inherently high risk of stranded assets. Rate Counsel contends that if, for example, an EVSE infrastructure company requests service at a particular site, but later does not install chargers on that site for whatever reason, ratepayers would be paying for an asset that was never placed in service. Rate Counsel states that if such an EV charger is later installed, either by another EVSE infrastructure company or the EDC itself, ratepayers would still be required to pay for an asset while it waited months or years to be placed in service. Rate Counsel argues that either of these scenarios would subject ratepayers to the volatility of the market.

[14] Atl. City Sewerage Co. v. Bd. of Public Util. Comm'rs, 128 N.J.L. 359, 365 (Sup. Ct. 1942); see In re Proposed Increased Intrastate Indus. Sand Rates, 66 N.J. 12, 22 (1974).

PSE&G Brief in Opposition to Motion

On November 18, 2024, PSE&G filed a brief in opposition to the Motion, arguing that the Board's decision to authorize recovery of prudently incurred Make-Ready investment as used and useful is based on well-settled legal precedent and is supported by current legislative and administrative policy determinations.

PSE&G first argues that the issue of whether Make-Ready investment can be used and useful has already been determined in the affirmative, as evidenced by Rate Counsel's execution of several stipulations agreeing that EV Make-Ready investments are used, useful, and recoverable in utility rates. PSE&G asserts that, in the Board's September 2020 Order, the Board similarly determined that where a utility makes a site Charger Ready "at the request of an unaffiliated EVSE infrastructure company," that investment shall be deemed used and useful, "even if the Make-Ready site is not immediately used."[15] PSE&G notes that Rate Counsel did not seek reconsideration of the September 2020 Order and, more importantly, executed a series of stipulations beginning in January 2021 agreeing that New Jersey's EDCs, including PSE&G, would make substantial investments in Make-Ready facilities that would be considered used and useful when built, even if not immediately used.

PSE&G argues that Rate Counsel stipulated, and the Board subsequently ordered, that PSE&G initial EV investment program would be comprised almost entirely of "Make Ready – meter to charger stub" and "Make Ready – Service Upgrade – pole to meter" investments, defined, respectively, to include "the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of . . . EVSE" and "activities and facilities needed to upgrade an electric service to accommodate EV service equipment."[16] PSE&G asserts that, at Paragraph 22 of the stipulation, the parties also agreed, and the Board ordered, that those "CEF-EV related" Make-Ready capital costs "shall be deferred and placed in a regulatory asset, for recovery in the Company's next base rate case."[17]

PSE&G contends that Rate Counsel's motion for reconsideration ignores this recent, relevant history and does not suggest any basis for a different outcome in this case, or any reason for Rate Counsel's apparent repudiation of its previous position in numerous stipulations that Make-Ready work can be used and useful. PSE&G argues that, therefore, the request for reconsideration is barred by both collateral estoppel, which precludes relitigation of issues previously determined, and by the doctrines of waiver and judicial estoppel, which preclude a party from taking a position in opposition to a position taken previously in a separate judicial proceeding.

PSE&G further argues that Rate Counsel's concern that permitting utilities cost recovery on prudently incurred Make-Ready investment will result in stranded assets is unfounded as a matter of fact. PSE&G contends that Rate Counsel ignored important elements of the proposed MFRs that directly address its alleged concern, such as the fact that each EDC's MDH EV Plan must require that chargers be operational for five years after installation, and that the EDCs are required to propose "enforcement mechanisms to achieve all requirements . . ., including but not limited

[15] In re Straw Proposal on Electric Infrastructure Build Out, BPU Docket No. QO20050357, Order dated September 23, 2020 ("Light-Duty Framework Order").

[16] In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future – Electric Vehicle and Energy Storage ("CEF-EVES") Program on a Regulated Basis, BPU Docket No. EO18101111, Order dated January 27, 2021.

[17] Id.

to, penalties, repayment of incentives, and withholding of bonds or reimbursement." PSE&G asserts that the safeguards contained in the October 2024 Order will mitigate any stranded costs and thereby protect customers.

PSE&G argues that Rate Counsel's motion should be denied for failure to meet the standard of reconsideration of a Board order, as the Board's determination that Make-Ready EV Investment is used and useful is consistent with relevant precedent and with New Jersey energy policy. PSE&G asserts that, in the October 2024 Order, the Board relied on essentially the same case law cited by Rate Counsel in its motion but, contrary to Rate Counsel's unsupported inference, the Board properly did not determine that case law limits the "used and useful" designation to investment only after there is electric power actually flowing through the equipment. PSE&G contends that, instead, the Board "viewed the infrastructure as 'an integral and unitary whole, considering all the elements properly entering into the ascertainment of a reasonable return for supplying the public need.'" PSE&G asserts that the Board was similarly aware that there must be "'an honest and intelligent forecast' of probable future values," considering all the circumstances relevant to the particular inquiry.

PSE&G further argues that the Board, in considering "all the circumstances," emphasized the goals of the EV Act, the 2019 EMP, and the Board's broad statutory authority, resulting in a conclusion that is supported not only by current State policy encouraging a transition to electric vehicles, but also by the Board's long-standing practice of recognizing in utility rate base plant projected to be in service in the future. PSE&G contends that, in its motion, Rate Counsel essentially argues that the Board should ignore recent EV precedent as well as public utility ratemaking principles, legislative mandates, and State policy, based on quotations Rate Counsel has taken from utility rate-making decisions that are inapplicable to this situation and do not support their position. PSE&G notes that the cases cited by Rate Counsel do not make clear that "used and useful" cannot include new assets put in place to satisfy important public policy considerations and that will be supporting distribution of power to EV chargers in the near future.

Finally, PSE&G argues that the Board's Infrastructure Investment Program ("IIP") regulations at N.J.A.C. 14:3-2A.6(a), which Rate Counsel relied on in its motion, are similarly inapplicable to the present matter. PSE&G asserts that those regulations provide an avenue for accelerated cost recovery for certain enumerated investments intended to upgrade utility infrastructure service existing customers. PSE&G contends that those regulations do not directly apply to investments, such as Make-Ready EV investments, intended to serve new load pursuant to established State policy. PSE&G notes that the fact that an IIP investment must be "functioning in its intended purpose" to serve existing load and is "not under construction" before cost recovery is permitted in no way precludes the Board from permitting cost recovery for Make-Ready EV investment.

DISCUSSION AND FINDINGS

Pursuant to N.J.A.C. 14:1-8.6(a), a motion for reconsideration of a proceeding may be filed by any party within fifteen (15) days after the effective date of any order by the Board. A motion for reconsideration shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration, reargument, rehearing or further hearing is requested and whether the ultimate relief sought is reversal, modification, vacation, or

suspension of the action taken by the Board or other relief.[18] Additionally, a party may request a stay of a decision or order of the Board upon a showing of good cause.[19]

Generally, parties should not seek reconsideration merely based upon dissatisfaction with a decision.[20] Rather, reconsideration is reserved for those cases where (1) the decision is based upon a "palpably incorrect or irrational basis" or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence.[21] The moving party must show that the action was arbitrary, capricious, or unreasonable.[22]

In adopting the October 2024 Order, the Board directed each investor-owned EDC to file an MHD Plan with the Board within 120 days of the effective date of the October 2024 Order. The Board's determination was informed by years of research, a straw proposal, and robust stakeholder proceedings. As a result, the Board determined that widespread EV adoption required a comprehensive EV infrastructure ecosystem, the existence of which is dependent on Make-Ready for charging infrastructure. Considering this, the Board determined that an MHD Plan including incentives for Make-Ready indeed has the potential to be considered as an integral and unitary whole, considering all the elements properly entering into the ascertainment of a reasonable return for supplying the public need.

As the Board noted in its September 2020 Order, and incorporated by reference in its October 2024 Order, an EDC may recover only the fair value of prudent investments in utility property that is used and useful in providing public utility service.[23] This determination includes viewing the infrastructure as "an integral and unitary whole, considering all the elements properly entering into the ascertainment of a reasonable return for supplying the public need."[24] There must also be "'an honest and intelligent forecast' of probable future values," considering all of the circumstances relevant to the particular inquiry.[25] An informed estimate of future values, however, is "at best an approximation," and in every instance, there exists "a reasonable margin of fluctuation and uncertainty."[26]

By its motion, Rate Counsel argues that: 1) the Board failed to adhere to well settled New Jersey case law when it found that the Make Ready infrastructure completed in preparation of an EV charger at the request of an unaffiliated EVSE infrastructure company, shall be deemed "used and useful," even if the Make Ready is not immediately used; and 2) the Board failed to adhere to its own regulations regarding the definition of "in service" as it relates to recovery.

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[18] N.J.A.C. 14:1-8.6(a)(1).

[19] N.J.A.C. 14:1-8.7(d).

[20] D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990).

[21] Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996).

[22] D'Atria, 242 N.J. Super. at 401.

[23] See Atl. City Sewerage, 128 N.J.L. at 365; accord In re the Petition of Pub. Serv. Coordinated Transp., 5 N.J. 196, 217 (1950); In re N.J. Power & Light Co., 9 N.J. 498, 509 (1952); Verizon Communications v. Fed. Communications Comm'n., 535 U.S. 467, 484 (2002).

[24] Atl. City Sewerage, 128 N.J.L. at 366.

[25] Ibid.

[26] Dayton Power & Light Co. v. Public Util. Com., 292 U.S. 290, 310 (1934).

As a threshold matter, the Board **HEREBY FINDS** that Rate Counsel's argument regarding the definition of "in service" at N.J.A.C. 14:3-2A.6(a), as it relates to rate recovery, is misplaced, as the subject regulation pertains to the Board's unrelated Infrastructure Investment Program. The subject regulations are inapplicable to investments, such as Make Ready EV investments, intended to serve new load pursuant to established state policy.

Next, with respect to Rate Counsel's arguments regarding the "used and useful" designation for Make Ready infrastructure, the Board acknowledges that clarification is required. In the October 2024 Order, the Board found that, where a utility is preparing a site to install an EV charger at the request of an unaffiliated EVSE infrastructure company, that infrastructure shall be deemed "used and useful," even if the Make Ready is not immediately used. In the following sentence, the Board ordered each investor-owned EDC to show that it was prudent in the manner in which it prepared the site for charger infrastructure.

The Board ordered each investor-owned EDC to show prudence in the manner in which it prepared the site for charger infrastructure in anticipation of the utility seeking recovery for its investment in a future rate proceeding. The intention of the Board was not to automatically deem any Make-Ready "used and useful," but was instead to allow each investor-owned EDC to propose, for Board approval, a mechanism to recover through a future proceeding, such as placing capital costs associated with Make-Ready into a regulatory asset for recovery in the Company's next base rate case, even if the infrastructure is not immediately used.

This intention is evidenced by the Board's orders approving stipulations of settlement for each investor-owned EDC's light-duty EV incentive programs, which, as PSE&G noted in its reply, was agreed by Rate Counsel.

With respect to PSE&G, the Board approved the light-duty EV stipulation provided at paragraph 22 that the EDC will make various Board-approved EV infrastructure investments, as described in paragraph 15 of the stipulation, which include various Make-Ready investments, the costs of which shall be deferred and placed in a regulatory asset for recovery in the company's next base rate case.[27] Those reasonable and prudent costs surrounding PSE&G's CEF-EV investments, which include Make-Ready investments, that were likely to be in service at the end of six (6) months after the end of the test year in the company's next base rate case were authorized to be reflected in the rates established in that case.[28] Those investments that were not likely to be in service by the end of six (6) months after the end of the test year shall be deferred and placed in a regulatory asset that could be recovered after the associated infrastructure has been placed into service, through annual roll-in filings following the next base rate case.[29]

[27] In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future - Electric Vehicle and Energy Storage ("CEF-EVES") Program on a Regulated Basis, BPU Docket No. EO18101111, Order dated January 27, 2021, at 44-45, 51.

[28] Id. at 51.

[29] Id. at 51-52.

With respect to ACE's Board-approved stipulation for its light-duty EV incentive programs, the Board authorized ACE to establish an EV Charging Program Regulatory Asset, including Make Ready incentives, which ACE can seek recovery for in future base rate cases that will be reviewed for reasonableness and prudency.[30]

In RECO's Board-approved stipulation for its light-duty EV incentive programs, the Board similarly authorized RECO to establish an EV Program-related Investment cost regulatory asset, to be reviewed for prudency and inclusion in base rates in RECO's next base rate case.[31] Paragraph 15 of the stipulation provided that costs associated with RECO's EV Program investment that are determined by the Board to be reasonable and prudent, and that are likely to be in service by the end of six months after the end of the test year in RECO's next base rate case shall be reflected in the rates established in that case.[32]

Finally, and similar to the other investor-owned EDCs, in JCP&L's Board-approved stipulation for its light-duty EV incentive programs, the Board authorized JCP&L to establish a regulatory asset for their EV infrastructure investment programs described in paragraphs 13 and 35 of the stipulation, to be recovered subject to a prudence review in JCP&L's next base rate case.[33]

Accordingly, it was not the intention of the Board to exempt any Make-Ready costs incurred in connection with an investor-owned EDC's MHD Plan from a prudence analysis in a future cost recovery proceeding.

Therefore, the Board **HEREBY FINDS** that it did not err in adopting the October 2024 Order's MHD MFR framework, as the Board's instructions are consistent with applicable law and were not palpably incorrect or irrational. As such, Rate Counsel's motion for reconsideration is **HEREBY DENIED** in its entirety.

Nevertheless, the Board wishes to clarify its October 2024 Order in accordance with the above, and **HEREBY AMENDS** page nine (9) of the October 2024 Order, pursuant to N.J.S.A. 48:2-40,[34] to delete the sentence which reads:

> The Board also **FINDS** that, where a utility is preparing a site to install an EV charger at the request of an unaffiliated EVSE infrastructure company, that infrastructure shall be deemed "used and useful," even if the Make Ready is not immediately used.

[30] In re the Petition of Atlantic City Electric Company for Approval of a Voluntary Program for Plug-In Vehicle Charging, BPU Docket No. EO18020190, Order dated February 17, 2021, at 44-45.

[31] In re the Petition of Rockland Electric Company for Approval of an Electric Vehicle Program, Establishment of an Electric Vehicle Surcharge, and for Other Relief, BPU Docket No. EO20110730, Order dated October 12, 2022, at 29-30.

[32] Id. at 30.

[33] In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Electric Vehicle Program and an Associated Cost Recovery Mechanism, BPU Docket No. EO21030630, Order dated June 8, 2022, at 48.

[34] N.J.S.A. 48:2-40 expressly provides that the Board, at any time, may revoke or modify an order made by it.

The Board further amends page nine (9) of the October 2024 Order to delete the sentence that reads:

> The Board, however, **ORDERS** the utility to show that it was prudent in the manner in which it prepared the site for charger infrastructure.

And to replace that with the following:

> The Board, however, **ORDERS** the utility to show that it was prudent in the manner in which it prepared the site for charger infrastructure in any attempt to recover costs associated with Make-Ready investments. No utility is permitted to recover costs associated with Make-Ready investments unless the investments are first deemed used and useful in a future proceeding.

This Order shall be effective on February 19, 2025.

DATED: February 12, 2025

BOARD OF PUBLIC UTILITIES
BY:

CHRISTINE GUHL-SADOVY
PRESIDENT

DR. ZENON CHRISTODOULOU
COMMISSIONER

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ATTEST:

SHERRI L. LEWIS
BOARD 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 MEDIUM AND HEAVY DUTY ELECTRIC VEHICLE CHARGING ECOSYSTEM

DOCKET NO. QO21060946

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