

Discussion Points

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Draft for Purposes of the April 20, 2009 Department of Environmental Protection Budget Hearing before the Senate Budget and Appropriations Committee

Discussion Points (Cont'd)

1. Organized "in but not of" the Department of the Treasury, the Board of Public Utilities (BPU) is a cabinet level regulatory authority with a statutory mandate (R.S.48:2-1 et seq.) to ensure safe, adequate, and proper public utility services such as natural gas, electricity, water, sewer, and telecommunications including cable television.

For FY 2009 and 2010 combined, the Governor's FY 2010 budget incorporates an estimated \$5.183 billion in **federal stimulus funding** provided by the American Recovery and Reinvestment Act (ARRA) of 2009. Of this amount, the State will use \$3.074 billion (\$854 million in FY 2009 and \$2.220 billion in FY 2010) for budget relief to offset revenue shortfalls (Budget-in-Brief, Appendix II, page 12), and \$2.109 billion to fund new or expanded programs or initiatives. The ARRA allocates funds to states both by formula and by competitive awards. The Governor's FY 2010 Budget includes \$107.9 million from ARRA for the Board of Public Utilities (\$36 million in FY 2009 and \$71.9 million in FY 2010 for the Clean Energy Fund and the State Energy Conservation program, as displayed on page C-25 of the Governor's FY 2010 budget).

- **Questions:** Please itemize the federal stimulus funding, other than portions of the \$3.074 billion allocated for budget relief, included in the Board of Public Utilities' budget, by fiscal year and federal program, setting forth program goals and eligible uses together with the amount for state administrative expenses and the amount for allocation to local public and private recipients, respectively. Please identify intended and actual recipients and the process by which the board determines recipients and funding awards. Are there ARRA funds that flow through the BPU for which the State has no discretion? Please also set forth the timetable for obtaining federal approval of funding, obligation and allocation of funding to recipients, and use by recipients. Could any of this funding be used to offset other State appropriations, and if so, what programs and in what amount? What additional positions, if any, have been and will be hired with these funds? If this money is being used for new or expanded activities, will the new or expanded activities be continued in FY 2011? If so, how will they be funded?

BPU RESPONSE:

Note – The BPU has updated its answer with the accurate numbers for federal stimulus funding.

The BPU will be receiving \$73,643,000 in State Energy Program (SEP) funds and \$14,400,700 in Energy Efficiency and Conservation Block Grant (EECBG) funds. The first 10% (\$7,364,300) of the SEP funds are anticipated to be received in FY'09. The remainder of the SEP funds and the EECBG funds are anticipated to be received in FY'10.

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The final uses of these funds have not been determined. An initial application for the SEP funds was submitted on March 23rd that identified the funds would be used for energy efficiency projects, solar and grants for other renewable energy technologies and alternative fuel programs. A comprehensive application that will provide program goals and details of accountability on how the funds will be used will be submitted by the May 12th deadline. The application for the EECBG funds will be submitted by the May 26th deadline and will describe the criteria of how these funds will be used. At least 60% of the EECBG funds need to be made available to municipalities (501) and counties (11) that do not receive direct EECBG funding. None of the funds being received by the BPU are currently being proposed to be used for administrative expenses and no positions will be filled with these positions.

There are not ARRA funds that flow through the BPU for which the State has no discretion.

For SEP funds, 10% of the funding is anticipated soon. The next 40% will be received once the comprehensive application is submitted and approved by DOE. The next 20% will be received once 50% of the first 50% of funding has been obligated. The remaining 30% will be received based on continued progress in obligating funds, complying with reporting requirements and creating jobs. Fifty percent of the EECBG funds will be received once an acceptable application has been submitted to and approved by DOE. The remainder will be received after one or more progress reviews that show funds have been obligated appropriately, compliance with reporting requirements and creation of jobs.

These SEP funds cannot be used to supplant other funding that is already in place. This provision does not appear in the EECBG funding announcement.

The ARRA funds are being used to supplement the existing Clean Energy Program funds. As such, while those programs will continue they will be funded from the Societal Benefits Charge. If the ARRA funds are used to provide funding for persons and businesses that are not served by the electric and gas utilities, funding sources will need to be developed to continue the programs once the stimulus funds are expended.

- **In addition to funding incorporated in the Governor's FY 2010 budget, what specific competitive grant opportunities has the BPU identified that it is eligible to pursue, has applied for, and has been awarded, respectively?**

BPU RESPONSE:

The ARRA competitive grant funding announcements have not been released by DOE. Based on the statute, it is anticipated that competitive grants for smart grid technologies and transmission improvements for renewable energy projects would be opportunities that entities (most likely the electric utilities) would be eligible to pursue. It does not appear that the BPU would be applying for these funds directly.

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- **Will the societal benefits charge be lowered as a result of the \$89.9 million the Clean Energy Fund is anticipated to receive in FY 2009 and FY 2010 combined from ARRA?**

BPU RESPONSE:

As stated above, the SEP funds cannot be used to supplant existing funding, therefore, the societal benefits charge will not be lowered as a result of receiving these funds.

2. Attrition, a hiring freeze, and an early retirement program have shrunk the Executive Branch workforce by almost 4,000 since FY 2007, producing an annualized \$312 million in cost savings (FY 2010 Budget-in-Brief, page 73). The Governor's FY 2010 budget proposal envisions continuation of the hiring restrictions coupled with possible furloughs or layoffs.

Anticipated additional **staffing reductions** had caused the BPU to reassess its priorities, as it stated in reply to Discussion Point #43 in the FY 2008-2009 Department of the Treasury Budget Analysis. The board noted further that it would reallocate employees to its highest priority work and that it would continue to evaluate whether to request the elimination of any legislative mandates, whether to curtail the work on any current priorities, or whether any opportunities remain to enhance efficiency in existing work.

- **Questions: In general terms and by means of specific examples, how has the reduction in staffing affected BPU operations?**

BPU RESPONSE:

The current number of total filled positions at the Board is 264. In 2004, the BPU had a total of 305 FTE (*as of pay period one, DOP workforce profile). Due to attrition, and as a result of the hiring freeze, the BPU has lost 41 employees over the past five years, much of that in the priority area of Energy. While the Agency's workload has significantly increased due to the leadership of Governor Corzine in effectuating the first Energy Master Plan in fifteen years, as well as the Governor's leadership in enabling the Board through legislation to issue the first system-wide Cable Franchise in state history, the BPU's workforce has not been replenished at a corresponding rate. The BPU continues to fulfill its statutory mandates with a reduced workforce, and reassesses priority areas on an ongoing basis to ensure those mandates are met.

What strategies has the board employed to deal with the continued downsizing?

BPU RESPONSE:

Discussion Points (Cont'd)

The BPU has employed a key tactic in dealing with reduced staffing levels—creating “teams” to work on specific, priority initiatives across multiple divisions. For instance, on Thursday the Board approved nearly \$1Billion in infrastructure filings from 6 of New Jersey’s utilities. This end product entailed a massive amount of work from BPU staff. To ensure we had adequate resources, we created an interdivisional team, consisting of members of Energy; Clean Energy; the Economist Office; Policy and Planning; and Counsel’s Office. By re-allocating staffing on a temporary basis to this priority, we were able to meet our mandate.

The BPU is actively planning to permanently reallocate staff from areas of lower priority into priority areas of Energy and Clean Energy, where the largest workloads with urgent needs reside.

What projects, work products or functions has the BPU scaled back, discontinued or deferred because of declining staffing levels?

BPU RESPONSE:

Basic office services functions such as internal mail delivery and courier service from Newark to Trenton has been curtailed. Regarding regulatory responsibilities, Board staff works to meet all requirements mandated upon the agency, but generally less resources are working to complete an ever-growing number of tasks.

- **Would the BPU be able to accommodate furloughs in FY 2010 without increasing spending for overtime or temporary workers?**

BPU RESPONSE:

Yes, the BPU could accommodate Furlough in 2010 with no or minimum overtime spending.

In which programmatic areas would layoffs occur, if any?

BPU RESPONSE:

The BPU is currently working on its layoff plans. All areas of the Agency are being examined for possible reductions.

Please comment on the likely impact of the planned furlough program and contemplated employee cuts on board operations and services.

BPU RESPONSE:

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BPU will shut down entirely on scheduled furlough days. Therefore, all services will be discontinued unless there is an emergency that may require response by employees assigned to respond to disasters such as pipeline explosions.

Would the BPU be ceasing certain activities, programs, or services? Would the downsizing cause the board to reassess its priorities and reassign staff accordingly among its programs? If so, please describe the internal reorganization.

BPU RESPONSE:

The NJBPU is planning to conduct a preliminary reorganization at the agency, which includes a comprehensive resource reallocation that addresses immediate core functional needs. This plan is intended to remedy immediate staffing challenges that have resulted from increased responsibilities and workload, a high volume of attrition, and a lack of replenishment of the Agency workforce due to the hiring freeze. This plan represents the first phase of what is intended to be ongoing workforce planning at the BPU, designed to achieve efficiencies by reallocating FTEs to priority areas.

When considering an overall reorganization, the most significant challenge to undertake is Energy. Energy represents a key priority area of the Governor; as a result, a significant increase of the workload of the overall energy arena (including subsections of clean energy and policy) has occurred over the past few years. We are anticipating that this workload will only increase as the Governor pursues this critical area of economic and environmental importance. In recognition of the critical importance of this area, the Agency reorganization has focused primary on the Energy and Clean Energy sectors.

- **How many BPU positions are currently filled?**

The BPU has 264 employees in pay status.

How many employees was the department authorized to hire in FY 2009 despite the hiring freeze?

7

Please indicate for which activities these hires were crucial.

2 Commissioners – Legislatively Mandated

Discussion Points (Cont'd)

- 1 Aide to the Commissioner
- 1 Legislative Liaison
- 1 Marketing Administrator for the Clean Energy Program
- 1 Engineer for the Clean Energy Program
- 1 Legal Specialist -Energy

These crucial hires centered upon several priority areas. Per a State Audit, it was recommended that the BPU increase its staffing in the Office of Clean Energy. The Engineer and Marketing Specialist were hired to fulfill this mandate. The Legal Specialist was hired to assist in the priority area of Energy, where the workload has significantly increased. The Legislative Liaison, as well as the Commissioner and Commissioner Aide positions, were backfills of necessary positions for the operations of the Agency.

- **Please categorize the BPU's activities, programs, and services by level of priority, indicating what impediments would stand in the way of curtailing or eliminating the activity, program or service. Which legislative mandates would the board like to see eliminated, if any, and for what reasons? (**

BPU RESPONSE:

As stated above the highest priority areas at the Board surround the issues of Energy, Clean Energy, Policy and Planning, Reliability and Security of the State's infrastructure. Those divisions will continually need additional resources and as necessary, some of these needs can be met internally and others (positions highly technical or specialized in nature) may come from external hiring efforts if positions are available.

Again, we believe there are areas within the Board that can sustain small reductions so that we can reallocate staff in order to meet our mandates.

As part of this plan we envision a continued emphasis to streamline our workforce to evolve with the industries we regulate. A phase two to this plan to be implemented in the future is a reorganization of the cable and telecommunications divisions as aspects of cable become deregulated and as the barriers separating these two industries continue to merge. When these divisions merge, further efficiencies in staffing levels will be met, and staff will be continually redeployed to priority areas.

At this time there are no legislative mandate eliminations to report, but an ongoing assessment of this issue is currently being conducted and those results if relevant will be shared upon completion.

3. The FY 2009 Appropriations Act anticipated that executive departments would achieve \$25 million in **procurement savings**. A chart on page 75 of the FY

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2010 Budget-in-Brief categorizes those savings and indicates that they will continue into FY 2010. The Governor's FY 2010 budget includes another \$25 million in savings from "smarter procurements" (Budget-in-Brief, page 54).

- **Questions:** Please indicate the FY 2009 amount of procurement savings achieved by the BPU, by the categories set forth in the referenced table, and the sources of those savings by board program. What is the annual amount of these savings as continued into FY 2010?

BPU RESPONSE:

In recognition of the current budget climate, we have curtailed our overall spending to achieve savings. Of note: between FY2008 and FY2009, we have reduced our office supply and office exam procurements by \$80,000; our use of temporary employees by \$22,000; our photocopies by \$26,000; and our subscriptions by \$12,000.

How have these reductions affected the BPU?

BPU RESPONSE:

BPU has delayed or purchase of software and hardware which would assist with the impact of decreased staffing through technology.

What projects, work products or functions has the board scaled back, discontinued or deferred in order to achieve these savings?

BPU RESPONSE:

We have deferred updating our computer system and equipment.

- Please list the projected contributions of the BPU to the \$25 million in savings from "smarter procurements" budgeted in the Governor's FY 2010 budget proposal. How would these reductions affect the board? What projects, work products or functions would the board scale back, discontinue or defer in order to achieve these savings?

BPU RESPONSE:

The BPU was not subject to this particular reduction because a reduction in our expenses would reduce the assessment revenue and not benefit the general fund.

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However, in recognition of the budget difficulties, we have reduced office supply and technical purchases to achieve savings as outlined above.

Please comment on the likely impact of the planned furlough program and contemplated employee cuts on board operations and services.

BPU RESPONSE:

BPU will shut down entirely on scheduled furlough days. Therefore, all services will be discontinued unless there is an emergency that may require response by employees assigned to respond to disasters such as pipeline explosions.

Would the BPU be ceasing certain activities, programs, or services? Would the downsizing cause the board to reassess its priorities and reassign staff accordingly among its programs? If so, please describe the internal reorganization.

BPU RESPONSE:

At this time the BPU would not be ceasing activities or services but has been studying a preliminary reorganization to address immediate core functional needs. This plan is intended to remedy immediate staffing challenges that have resulted from increased responsibilities and workload, a high volume of attrition, and a lack of replenishment of the Agency workforce due to the hiring freeze. This plan represents the first phase of what is intended to be ongoing workforce planning at the BPU, designed to achieve efficiencies by reallocating FTEs to priority areas.

4. Imposed pursuant to N.J.S.A. 48:3-60 as a component of the "Electric Discount and Energy Competition Act" (P.L.1999, c.23), the **societal benefits charge** is embedded in electric and natural gas ratepayers' monthly utility bills. Proceeds finance nuclear plant decommissioning, manufactured gas plant remediation, utilities' uncollectibles, energy consumer education, energy assistance programs to low-income utility customers via the Universal Services Fund (page H-11 of the Governor's FY 2010 Budget), and energy demand management programs including BPU's Clean Energy Program. In calendar year 2007, the charge yielded \$607.2 million in revenues and supported \$555.0 million in expenditures.

In response to Discussion Point #47 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU indicated that \$44.3 million, or eight percent, of calendar year 2007 charge expenditures covered utility company uncollectibles. The board explained that prior to the charge's creation utility companies included uncollectible balances in their base rates, which exerted some pressure on utilities to

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pursue collection of those monies. The "Electric Discount and Energy Competition Act," however, relieved utilities from this pressure by incorporating uncollectibles in the new societal benefits charge.

- **Questions:** Please indicate which amount of societal benefits charge collections financed each program supported by the charge in calendar year 2008. Has the charge been increased since January 1, 2008? If so, please divulge the rationale for doing so. The charge represented which percentage of an average ratepayer's annual energy utility bill in calendar year 2008?
- What efforts are currently being deployed to collect unpaid utility balances? Does the BPU require utility companies to make certain attempts at collecting outstanding sums before they can claim compensation out of societal benefits charge proceeds? If not, how can ratepayers be assured that they do not wind up paying for debt that may indeed be collectible?

Utilities historically included in their rates funding for programs that provide societal benefits such as low income programs, nuclear decommissioning, and funding for energy efficiency and renewable energy programs. New Jersey's 1999 electric utility restructuring legislation (EDECA) mandated that the Board of Public Utilities permit utilities to continue collecting funds for these types of programs in a restructured utility market through a "societal benefits charge" (SBC).

In 2008, the following programs were supported by the societal benefits charge:

Nuclear Decommissioning:	\$19.5 Million
Gas Plant Remediation:	\$38.1 Million
Uncollectables:	\$47.8 Million
Consumer Education:	\$8 Million
Universal Service Fund:	\$256 Million
Clean Energy Program:	\$279 Million
Total:	\$649.6 Million

	ACE	ETG	JCPL	NJNG	PSEG Electric	PSEG Gas	RECO	SJG	Total
Decommissioning			\$19.5						\$19.5
Remediation		\$6	\$7.7	\$15.6	\$4.1	\$11.7		-\$1.6	\$38.1
Uncollectables	\$4.6		\$10.4		\$32.8				\$47.8
Consumer Education	-\$1	\$7.9							\$7.8
USF	\$19.5	\$12.8	\$43.5	\$14.3	\$85.4	\$66.6	\$3.3	\$11.2	\$256.6
CEP	\$33	\$0	\$45.6	\$11.1	\$126.7	\$52.9	\$3.9	\$6.5	\$279.8
Total	\$57.1	\$21.3	\$126.7	\$41	\$249	\$131.2	\$7.2	\$16.1	\$649.6

SBC funds for all 6 programs are collected as a non-bypassable charge imposed on all customers of New Jersey's investor-owned electric and gas public utilities. The

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SBC is a per kWh/therm charge that equates to approximately 3% of a customer's energy bill. The BPU determines the amount that will be collected.

There were increased charges for the Clean Energy Program and uncollectables pursuant to Board Order. For uncollectables, charges were required to reflect recovery of current costs, and to true up existing under recovered balancances. For the Clean Energy Program, there were increased charges to enable investment in government energy efficiency infrastructure, which ultimately serves to lower the overall tax payer burden.

In 2008, statewide Universal Service Fund rates were increased pursuant to Board Order. USF is based upon a projection of gas and electric prices, as well as projected enrollment. Enrollment increased by approximately 20 percent in these programs, due in large measure to the downturn in the economy. Increased enrollment was also due to a new process to incorporate Lifeline recipients into USF.

The utilities make the following efforts to collect unpaid utility bills:

- Make "fair and reasonable" alternative payment arrangements available
- Conduct mail campaigns offering various payment plans to customers
- Offer alternative payment options (e.g. online payment, check by phone)
- Promote the use of "My Account", an online tool to help customers analyze and compare bills
- Send warning notice letters and conduct call campaigns to customers.

If customers do not respond to these actions, accounts are sent to outside collection agencies.

The Board reviews uncollectables during base rate proceedings. This review is done on a case-by-case basis and the resolution is utility specific.

5. After deeming inadequate the current **computer application that tracks data on the location of interstate gas pipelines and their inspection status** under the Pipeline Safety Program, the Office of the State Auditor advised in its August 2007 audit report on the BPU that the board improve the applications it used in managing underground utility safety programs. The State Auditor also noted that meaningful analysis of incidents with underground facilities under the "Underground Facility Protection Act" pursuant to P.L.1994, c.118 (C.48:2-73 et seq.), was impossible because the current computer application could not provide adequate data. The law requires excavators to call a toll-free number three days prior to excavation and companies to mark their underground facilities near the excavation to prevent damage.

Replying to Discussion Point #52 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU affirmed that its current applications did not allow for the effective management of underground facilities. The board also clarified that its entire database management system was outdated. Furthermore, it provided a chronological listing of events indicating that the BPU's IT staff had first contacted

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the Office of Information Technology (OIT) in August 2003 regarding a database re-engineering project. Since then, the BPU contended that OIT has repeatedly endorsed a specific course of action just to make an about-face and impose a different course of action. As of the writing of the board's response to the discussion point, the BPU was expecting to submit a request for proposal for the re-engineering project to Gartner Group for review by May 2008.

- **Questions: Please provide an update on the status of the envisioned re-engineering of the BPU's database management system. Has the request for proposal been written and submitted to Gartner Group?**

BPU RESPONSE:

The BPU and State Office of Information Technology have been working closely together to complete the database re-engineering. The Database Re-Engineering RFP has been written and reviewed by the Office of Information Technology (OIT) Project Management Group. It has gone through the conceptual System Architectural Review as well, and has been approved by OIT. The RFP will be sent transmitted to the Department of Treasury, Division of Purchase and Property for review and approval.

6. In October 2008, the Energy Master Plan Committee, statutorily chaired by the President of the BPU, released the New Jersey Energy Master Plan. Serving as a blueprint for managing the State's energy needs through 2020, the plan seeks to ensure that New Jersey has a reliable supply of energy, at a reasonable price that is produced and consumed in a manner consistent with the State's environmental needs. The plan includes numerous initiatives geared towards accomplishing the State's environmental twin goals of reducing the State's electricity consumption by 20 percent from projected 2020 consumption levels and of **meeting 30 percent of the State's electricity needs with renewable energy by 2020**. Under the State's current Renewable Energy Portfolio Standard, the State has to source 22.5 percent of its electricity in 2020 from renewables. The Energy Master Plan raised the target to 30 percent.

- **Questions: Please explain the factors that motivated the decision by the Energy Master Plan Committee to increase the percentage of New Jersey's electricity consumption that must be from alternative energy sources by 2020 from 22.5 percent to 30 percent. Which percentage of the electricity consumed in New Jersey is currently from alternative energy sources? What is the probability that New Jersey might fail to meet the 30 percent target? Has the committee prepared or commissioned a cost-benefit analysis to assess the economic ramifications of the new target? If so, please provide a copy of the analysis.**

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The main impetus to increasing the renewable portfolio standard (RPS) from 22.5% to 30% was the identification of significant biomass to energy possibilities. These biomass possibilities could be either waste, sewage sludge or energy crops grown on marginal lands. In addition, shifting the solar portion of the RPS from a percent to an electricity requirement will also result in an increase in the overall renewable percentage.

The increased amount of Offshore wind required through the EMP will generate a significant portion of the Class I RPS requirement.

The current RPS requires 6.5% (3.84% class I, 0.16% solar and 2.5% class II) renewables in the energy year that will end on May 31st.

New Jersey has and is continuing to put in place programs and regulations that will provide the means to achieve the 30% target.

The Energy Master Plan contained a macro economic analysis of the entire plan. This analysis is available on the website www.nj.gov/emp. An economic analysis of the increase to 30% will be conducted as part of the rule making process that will be undertaken later this year.

- **In general, what weight did the committee assign to concerns that its actions could erode the competitive position of New Jersey-based energy-intensive businesses? In its deliberations, did the committee soften or reject any alternative energy initiative or goal because of a perceived risk to the State's economy?**

BPU RESPONSE:

The Committee assigned significant resources in the planning process to ensure that the EMP would assist, not erode, the competitive position of New Jersey based energy intensive businesses. The Energy Master Plan (EMP) identified a group of goals and actions that would be needed to achieve the greenhouse gas emission reductions that would be needed from the electricity and heating sectors to meet the requirements of the Global Warming Response Act. This scenario was compared to a business as usual (BAU) scenario and the economic impacts modeled for the broad economic sectors, residential, commercial and industrial. The results for the economic impact analysis showed that for the commercial and industrial sectors they would save over \$3.5 billion under the EMP compared to the BAU scenario. Individual companies that take advantage of the energy efficiency and demand response programs called for in the EMP will benefit directly as will all customers as demand is reduced thus depressing the cost of electricity.

7. New Jersey is among the ten Northeastern and Mid-Atlantic states comprising the **Regional Greenhouse Gas Initiative (RGGI)**. Members pledge to cap annual regional carbon dioxide emissions from power plants at their projected 2009 level from 2009 through 2014 and to lower emissions by ten percent from 2015 through

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2018. RGGI created a mandatory cap-and-trade program effective as of January 1, 2009 under which participating states first auction off carbon dioxide emission allowances and power plant owners then trade them in a secondary market so as to match emissions with emission allowances. In response to Discussion Point #44 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU stated that the 2009 regional emissions cap of 188 million tons of carbon dioxide was based on annual emissions data from 2000 to 2004. In 2006, however, emissions dropped significantly in part due to a significant shift in the composition of power generation inputs by utilities. Observers have suggested that a cap above actual emission levels may not impel utilities to reduce their emissions further and may undermine the market for emission permits by occasioning an oversupply of permits. The BPU surmised, however, that utilities may support the initial demand for permits if they purchased allowances for future use. In addition, RGGI authorized states to tighten their cap by retiring allowances from their emissions budgets. According to the Department of Environmental Protection (DEP), the State made 66 million tons of carbon dioxide emission allowances available at the December 2008 RGGI auction but expected only 22.9 million tons to be auctioned, generating \$68.7 million in receipts.

P.L.2007, c.340 instructs the DEP to design a market for carbon dioxide emission allowances with the assistance of the BPU and mandates that all proceeds therefrom be deposited in the "**Global Warming Solutions Fund**". The BPU shall use 20 percent of the proceeds to support programs reducing the electricity demand or costs of low- and moderate-income residential ratepayers primarily in urban areas. The New Jersey Economic Development Authority (EDA) and the DEP shall use the remaining proceeds for assorted energy efficiency projects and initiatives and to manage the State's forests and tidal marshes. In consultation with the BPU and the EDA, the DEP shall develop by January 13, 2009 guidelines for allotting fund revenues.

- **Questions:** Please comment on the performance to date of the market for carbon dioxide emission allowances. How many allowances did New Jersey auction at the December 2008 and March 2009 RGGI auctions and what were the ensuing proceeds? Was there an oversupply of allowances? If so, did the oversupply depress their price? If allowances were overabundant, does the BPU envision retiring a portion thereof in the future? Is the secondary market for allowances functioning?

BPU RESPONSE:

The Department of Environmental Protection has the authority to auction allowances, pursuant to P.L. 2007, c. 340, and is in the best position to comment upon the market for carbon dioxide allowances under RGGI. About 4.5 million New Jersey allowances were sold in each of the two auctions in which New Jersey participated. All allowances offered for sale in the auctions thus far have been purchased.

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- **Considering that 25 percent of the electricity consumed in New Jersey is produced out-of-state and considering that PJM Interconnection LLC operates the electric transmission grid in a region that covers thirteen states of whom 10 states are not part of RGGI, how does RGGI treat electricity generated outside RGGI states but consumed inside RGGI states?**

BPU RESPONSE:

The RGGI cap on CO₂ emissions under RGGI applies only to electric generation units within the 10-state RGGI region. Electric generation units located outside the RGGI region are not subject to the RGGI cap and are not required to use RGGI allowances to compensate for their CO₂ emissions.

Does RGGI create a cost advantage for power plants in non-RGGI states over power plants in RGGI states?

BPU RESPONSE:

An electric generation unit located outside the RGGI region will have a cost advantage over an identical unit located within the RGGI region, because the unit in the RGGI region will incur a cost to obtain and use RGGI allowances to compensate for its emissions while the unit outside the region will not. The extent of the cost advantage will depend on (i) the price of RGGI allowances, (ii) the efficiency of the units, and (iii) the carbon content of the fuel. For example, at the most recent RGGI auction price of \$3.51 per ton, a relatively new combined-cycle power plant burning natural gas and located outside the RGGI region will have a cost of advantage of under \$1.50 per megawatt-hour over its counterpart inside the RGGI region. For a typical coal-fired plant, the difference would be about \$3.65.

Does the BPU expect the percentage of electricity consumed in New Jersey that originates out-of-state to increase because of New Jersey's adherence to RGGI and the non-adherence of states such as Pennsylvania?

BPU RESPONSE:

The BPU expects that planned upgrades and expansions to the electric transmission grid can be expected to result in substantial increases in electricity generated in coal-producing regions and noticeable decreases in electricity generated in New Jersey, which presumably translates into significantly increased imports. The BPU draws that conclusion from modeling performed by PJM Interconnection, which plans and operates the electric transmission grid in a region stretching from New Jersey to Illinois and North Carolina. The effect of those transmission changes far outweighs the projected effects of RGGI. Modeling performed for the RGGI states projects an 11.7% increase in imports of electricity into the RGGI region that can be attributed to RGGI, at allowance prices close to those currently prevailing in the market. The RGGI modeling attributes the majority of that increase to a shift in the

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location of new power plants, with more such plants constructed outside the RGGI region. However, over the past few years very few new plants have been constructed or even announced either within the RGGI states in PJM or in other PJM states. That suggests that the RGGI modeling is likely to be overstating the effect of RGGI on imports.

What are the prospects of the ten non-RGGI states in the PJM transmission system joining RGGI assuming no federal policy change?

BPU RESPONSE:

Except for the District of Columbia, no non-RGGI jurisdiction has expressed interest in joining RGGI aside from the ten states that are participating already.

- **How does the BPU intend to use "Global Warming Solutions Fund" moneys? Does it anticipate supplementing existing Clean Energy Fund programs? Or does the board plan to develop new programs? If so, please outline the broad contours of the new programs and indicate a date by which the BPU plans to have them established.**

BPU RESPONSE:

The first monies deposited into the Global Warming Solutions Fund were the proceeds of an auction of RGGI allowances held in December 2008. The Board determined to use these funds to assist electric customers facing a crisis situation who were not income-eligible for existing low-income assistance programs. A notice of grant availability was published and the grant (approximately \$2.8M) was awarded to NJ SHARES, to provide financial assistance to electricity customers who had received a disconnection notice, but were not already eligible for low-income financial assistance programs such as the Universal Service Fund or the Low Income Home Energy Assistance Program. The Board expects that customers receiving this financial assistance will also receive information about other types of financial assistance that will help them to make their homes more energy efficient. *The Board was guided in its allocation decision in part by the rules proposed by the Department of Environmental Protection establishing guidelines and a priority ranking system to be used to assist the DEP, the Economic Development Authority, and the Board in allocating Global Warming Solutions Fund monies to eligible projects or programs.*

The Board is currently seeking public comments about the use of proceeds from the 4 auctions to be held in 2009. The Board expects to make a decision on this use of

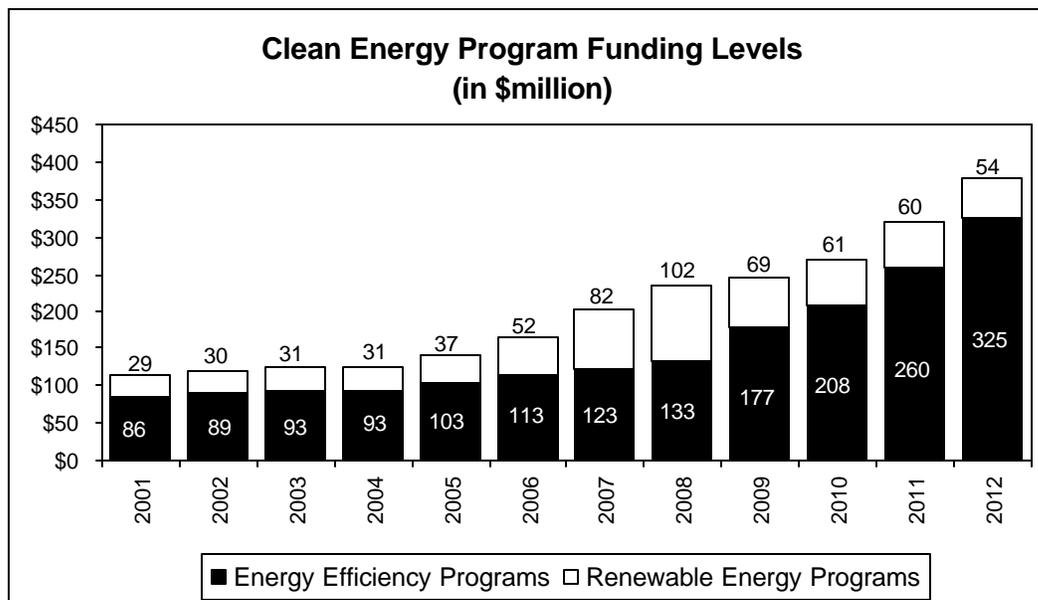
Discussion Points (Cont'd)

proceeds in May 2009, after reviewing public comment and consulting with BPU Staff and the Attorney General's office.

8. In August 2008, the BPU approved Board Order No. EO07030203, which set the **Clean Energy Program** budget for calendar years 2009 through 2012. The program's funding level will increase from \$235 million in 2008 to \$379 million in 2012, reflecting a 12.7 percent annualized growth rate. Because funding for most of the solar program is transitioned away from the Clean Energy Program (see Discussion Point #10), authorized spending on renewable energy programs will fall from \$102 million in 2008 to \$54 million in 2012. On the other hand, the approved funding level for energy efficiency programs will rise at an annualized rate of 25 percent from \$133 million in 2008 to \$325 million in 2012. The BPU projects that by 2012 Clean Energy Program proceeds will represent 2.09 percent of estimated retail electricity revenues and 1.54 percent of estimated retail natural gas revenues. The board states further that every dollar expended in the commercial and industrial energy efficiency program produces \$11 in customer bill savings and that every dollar expended in the residential energy efficiency programs yields \$4 in bill savings. In October 2008, the Administration released the New Jersey Energy Master Plan, which champions a redesign of the energy efficiency programs and the transfer of their operation to electric and gas utilities.

The BPU oversees the Clean Energy Program, created as part of P.L.1999, c.23 (C.48:3-49 et seq.) and operative since April 2001, through which the State seeks to promote increased energy efficiency and the use of renewable sources of energy including solar, wind, geothermal, and sustainable biomass. The program's financial incentives support residents' purchases of high efficiency heating and cooling systems, commercial energy efficiency projects, and installations of solar electric or other renewable energy systems, among other initiatives. New Jersey ratepayers finance the program via the societal benefits charge included in their electric and natural gas bills.

Discussion Points (Cont'd)



Addressing Discussion Point #48 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU noted that it expected by May 2008 the receipt of a full funding reconciliation for the Clean Energy Program for calendar years 2001 through 2005. Thereafter, the reconciliation would serve as the basis for a full audit of all program managers, including the seven electric and natural gas utilities and all state agency managers. Audits on the program by the Department of the Treasury and the Office of the State Auditor highlighting significant internal control and record keeping shortcomings prompted the full audit.

- Questions:** For every energy efficiency program financed out of the Clean Energy Fund, please detail the authorized spending level for calendar years 2009 through 2012 and provide a short program description. Do these programs have the capacity to absorb the additional resources and to disburse them effectively, efficiently, and consistent with program goals? What changes, if any, are necessary to facilitate the effective and efficient operation of the programs at heightened funding levels?

BPU RESPONSE:

The 2009 through 2012 funding levels are 2009 - \$245 million, 2010 - \$269 million, 2011 - \$319.5 million and for 2012 - \$379 million. The Board has approved the allocation between energy efficiency (EE) and renewable energy (RE) at \$176.5 million and \$68.50 million respectively for the 2009 calendar year program only.

As set forth in the January 8, 2009 order the Board approved the specific residential EE, commercial and industrial (C&I) EE and RE programs only. The specific allocation between residential, C&I and renewable specific program will be determined by the Board on an annual basis.

Discussion Points (Cont'd)

If the Board approves the same or similar suite of specific programs for EE and RE in 2009 for 2010 through 2012 these programs have sufficient capacity to expand to deliver the projected savings.

In order to establish the funding level, the Board engaged Rutgers Center for Energy Economic and Environmental Policy (CEEPP) to analyze the cost benefits of the current program. CEEPP also updated the 2005 EE Market Potential report prepared by KEMA. In addition the Board through Rutgers engaged Summit Blue to prepare an EE and RE Market Assessment. The conclusions of these reports and analysis were that the current program has sufficient capacity to be expanded to deliver the energy savings and clean energy generation.

The processes the Board has established to manage and distribute the NJCEP rebates and incentives can be expanded to deliver these expanded services. The analysis performed by the Board document that in order to achieve the greenhouse gas reductions as set forth in the Global Warming Response Act; and as supported by the EMP goals, the NJCEP energy savings would essentially need to double in one year the total savings if achieved in 2001 through 2006. It is the Board's position that we can not just "buy our way" through rebates to achieve these savings. This must be accomplished through a transformational energy efficiency Market as set forth in EDECA.

The transformation of the incentives in the renewable energy program through longer term financing is a road map for a similar transformation in the EE market.

- **Please provide an update on the implementation of the Energy Master Plan initiative to redesign the energy efficiency programs operating under the Clean Energy Program banner. Please list and justify any changes. If the energy efficiency programs are transferred to electric and gas utilities, will the programs still be funded out of the Clean Energy Fund or will their cost be built into the utilities' electricity and natural gas rates?**

BPU RESPONSE:

The Board directed the utilities to develop utility specific energy master plans as called for in the Energy Master Plan. These plans are due by the end of the 2009. It has not been determined if the societal benefits charge or a utility charge will fund the utility programs. However, ratepayers will only pay once for these programs.

- **Please explain how the Clean Energy Program would have to be altered to meet the twin goals of the Energy Master Plan of reducing statewide energy consumption by at least 20 percent by 2020 and of having renewable sources meet 30 percent of the State's electricity needs by 2020. Will programs have to be revised? Please project the funding levels for the Clean Energy Program for calendar years 2012 through 2020.**

Discussion Points (Cont'd)

BPU RESPONSE:

The Clean Energy Program has been evolving since its inception in 2001. Energy Efficiency programs have shifted as improvements in technology have made incentives for certain equipment obsolete. For Renewable Energy programs, there has been a shift away from rebates to a market based approach where the value of the electricity produced by the renewable source in the form of a renewable energy certificate (REC) or a solar REC. It is expected that programs will continue to be revised to meet the Energy Master Plan goals. As stated above, the energy efficiency programs will be shifted to the utilities.

It is not possible to project the Clean Energy Program funding levels for 2013 to 2020. As required by EDECA, the Board conducts a comprehensive resource analysis once every four years to determine the funding levels needed in the Program. The last analysis was conducted in 2008 and set the funding levels for 2009 through 2012. The 2012 funding level is \$379.25 million. The next comprehensive resource analysis will be conducted in 2012 and will set the funding levels for 2013 to 2016.

- **Given that the commercial and industrial energy efficiency programs produce \$11 in customer bill savings for every \$1 in Clean Energy Program funds expended, please explain the rationale for subsidizing such projects. Would it be a more efficient use of public moneys if the Clean Energy Program ran informational campaigns targeting commercial and industrial energy users?**

BPU RESPONSE:

The Governor's Energy Master Plan calls for a 20 percent reduction in energy by the year 2020. This will effectively result in approximately \$30 billion in total energy savings between 2010 and 2020 for its consumers, while stimulating \$33 billion worth of investment into the State's energy infrastructure and creating 20,000 jobs.

In order to achieve this ambitious goal, we need to undertake a systematic effort to give our 3.7 million buildings--homes, commercial and government structures -- an energy check-up that will uncover the best ways to improve the building's performance. We have already improved the energy performance of 500,000 homes, businesses and other structures in New Jersey. Now, we undertake the task of accomplishing more -- to improve the energy performance of 300,000 buildings each year between now and 2020. Engaging commercial and Industrial businesses in energy efficiency is key towards achieving our overall goals.

While it is correct the return on investment is \$11 return to the customer for every \$1 invested, simply expanding an informational campaign targeting to C&I energy users of this fact will not move the market. Rather, it is the issue of access to capital that will motivate commercial and industrial customers to invest in energy efficiency.

Discussion Points (Cont'd)

We are actively working to align our programs to make these investments occur, in concert with new funding streams through ARRA, as well as through the energy efficiency filings from the utilities.

- **Has the funding reconciliation for the Clean Energy Program been completed? If so, what have been its findings? If not, what factors account for the delay? Has the BPU begun a full audit of all Clean Energy Program managers? If so, during which timeframe does the BPU anticipate its completion? If not, what factors account for the delay?**

BPU RESPONSE:

The funding reconciliation for the Clean Energy Program for 2001 through 2005 has been completed. The report has been circulated to the Utilities for their review and comments. Once these comments are addressed, the report will be final. We anticipate finalizing this report before May 14, 2009.

9. In October 2008, the BPU added the **Local Government Energy Audit Program** to the portfolio of energy efficiency incentives it offers to commercial, industrial, and governmental ratepayers under the Clean Energy Program. Under the program, the BPU covers at least 75 percent of the cost of approved energy audits of local government facilities. Subsequently, program participants also qualify for financial assistance if they implement energy improvements recommended in the audits.

- ***Questions:*** Please relate the number of local government entities that have successfully applied for an energy audit under the Local Government Energy Audit Program. How many audits have been completed thus far? Have auditees already qualified for additional financial support to implement energy improvements recommended in the energy audits? What has been the total cost to date of the audit program and of the ensuing financial assistance for implementing recommended energy savings initiatives? Have the audits already resulted in energy savings? If so, what has been the program's impact?

BPU RESPONSE:

There are 235 local government entities, (municipalities, school board, municipal utilities, or counties) that have submitted initial applications. 54 applications are currently approved, with \$2.108M reserved for their use.

The Program actually began in January 2009, therefore while audits are scheduled, none have yet been completed. After the initial application, the local government

Discussion Points (Cont'd)

has to put together a short scope of work (SOW) for the project, pass a resolution to submit the application/ SOW to the 5 energy audit companies, receive bids, review the bids and make an award, and pass a second resolution making the award. At that point, audits are scheduled and implemented.

To date no reports have been finalized but given the enactment of the Energy Savings Improvement Program we anticipate a significant increase in this program.

10. In April 2006, the BPU approved regulations to expand the State's Renewable Portfolio Standard pursuant to P.L.1999, c.23 (C.48:3-49 et seq.), which determines a minimal percentage of total kilowatt-hours sold in New Jersey by each electric power supplier and each basic generation service provider that must be from renewable energy sources. Under the rule, the percentage of electricity sold in New Jersey that must come from solar electric generation rises gradually from 0.0817 percent in 2008 to 2.12 percent in 2020. The projected financial impact of that increase on BPU's **solar system incentive program** compelled the agency to alter the subsidy. Financed through the Clean Energy Fund (whose balances originate from the societal benefits charge included in the electric and natural gas bills of New Jersey ratepayers), the prior program provided rebates of up to 70 percent of the cost of installing solar electric systems. The agency reported that it had thus approved \$256 million in rebate payments between May 2001 and March 2009. To meet the 2.12 percent 2020 target under prior program specifications, however, the BPU noted that it would have to disburse an estimated \$10.9 billion in rebates, which would add 7.5 percent to current electricity rates.

On August 7, 2008, the BPU concluded its third Comprehensive Energy Efficiency and Renewable Energy Resource Analysis (CRA). The CRA proceedings are the legislatively mandated method followed every four years by the BPU to establish funding levels for clean energy programs. The BPU set a four year funding level for small solar that took into consideration a variety of factors including the Board's desire to transition to a more market based approach to subsidizing solar. On December 16, 2008, the BPU approved a new rebate program for solar and carrying over uncommitted funds from the 2008 budget to serve applications received in 2008. Under the revised program, only solar installations with a capacity of less than 50kW may still receive rebates until May 31, 2012, by which date rebates are expected to be completely phased out. The Clean Energy Program will fund the rebates from the BPU approved \$21 million budgeted for that purpose in 2009 as well as any funding available should any of the \$116 million in rebate commitments not construct. The BPU established CRA funding level amounts for small solar decline to \$6.75 million in 2012. As approved by the Board, the BPU managed rebate contractors continued to make commitments against the 2008 CORE rebate budget through the first 90 days of 2009, and began accepting applications on February 3, 2009 for the new solar rebate program titled the "Renewable Energy Incentive Program" .

In addition to the benefit from an upfront subsidy for the installation of the small solar systems, owners or developers are able to sell attributes associated with the solar

Discussion Points (Cont'd)

electricity they produce to electricity suppliers in the form of Solar Renewable Energy Certificates (SRECs or Solar RECs). SRECs are the primary compliance mechanism used by regulated entities in the Board's Renewable Portfolio Standards codified at N.J.A.C. 14:8-2. When sufficient SRECs are not available in the compliance market, regulated electric suppliers and providers must pay Solar Alternative Compliance Payments (SACPs). On March 16, 2009, the BPU established Solar Alternative Compliance Payment levels for eight years. The BPU established the SACP schedule under modeled assumptions for the SREC values needed to reach the the RPS goals. These values assume that on average solar investments will provide a twelve percent internal rate of return and solar power system investors could break even on their investments after approximately six years. Installations may only produce Solar RECs for fifteen years. To limit the solar incentive's cost to ratepayers, the board capped the cost of statewide solar programs at two percent of the estimated Statewide retail cost of electricity. In Board Order No. EO07030203, the BPU estimates that Solar RECs would cost ratepayers \$42.2 million in 2009 and \$268.5 million in 2012. The average residential ratepayer would pay \$4.37 in 2009 and \$15.96 in 2012.

- **Questions:** Please comment on whether the market for Solar Renewable Energy Certificates (Solar RECs) is operating as the BPU intended. What has been the trading volume of Solar RECs since January 1, 2008 and what has been the total value of Solar RECs exchanged in the market? Has the trading volume ticked up over time? What is the current market price of Solar RECs and what was the market price on January 1, 2008, April 1, 2008, July 1, 2008, October 1, 2008, and January 1, 2009? If the market is not working the way the BPU intended, what kind of modifications, if any, has the BPU undertaken or is planning to undertake to improve the market's vitality and operations?

BPU RESPONSE:

The market for SRECs is operating as intended by the Board. A key component of the BPU's strategy for transitioning the state's solar incentive system from reliance on rebates to a more market based subsidy lies in the SREC value. The market price for an SREC is expected to serve as a market signal or indicator of the level of need for new installed capacity. The SREC value is determined by the supply of SRECs delivered by installed systems and the demand for SRECs established as a percentage of retail sales requirements in the Board's Renewable Portfolio Standard rules. The RPS rules also establish the Solar Alternative Compliance Payment (SACP); companies required to comply with the solar renewable portfolio standard can pay the SACP in lieu of obtaining SRECs; as a result, the SACP in effect caps the price of an SREC, since there would be no reason to buy an SREC at a price that exceeded the SACP. In August 2007, the Board approved several changes to the solar RPS rules including the establishment of a higher SACP level with a schedule of SACP levels for the next eight years, providing more longer-term certainty in the SREC market than was available under rules calling for annual re-evaluation of the SACP.

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In January 2007, at the same time it commenced a stakeholder proceeding on the transition away from rebates, the BPU established an SREC Registration Program for projects that desired access to the SREC marketplace and could complete without a solar rebate. Since then, over 90 projects have completed installation of over 15.8 MW of installed solar capacity without the need for a rebate. These projects have tended to be larger in scale than the average installation sizes previously seen in the rebate program. This result is as expected and is the primary motivation for the BPU's directive issued in August 2008 to the Electric Distribution Companies to develop SREC based financing programs.

However, a shortage of SRECs is expected for the Energy Year ending May 31, 2009 (compliance with the solar RPS is determined over the course of an entire Energy Year running from June 1 through the following May 31). We expect that this shortage will be corrected as the utilities implement the Board's direction to enter into long-term contracts or other arrangements that will support the financing of solar projects. However, as a result of the current shortage, and the increase in the SACP from \$300 in the Energy Year ending May 31, 2008 to \$711 in the current Energy Year, SREC prices have been reported by market participants in the spot market as trending higher to a cumulative weighted average price of \$462 per MWh or SREC with a reported high reaching \$680 per SREC. SREC prices in prior Energy Years had trended toward the SACP level of \$300 with the highest cumulative weighted average price reaching \$246 per SREC in EY08, \$220 per SREC in EY07, and \$215 per SREC in EY06.

In Energy Year 2008, nearly 53,000 SRECs were created and over 49,000 SRECs were retired by regulated entities toward compliance with the solar portion of the RPS. Since the total RPS solar obligation required over 65,000 SRECs or SACP payments from 0.0817% on 80 million Mwh of retail electric sales, regulated entities also procured 15,768 SACP payments for a total of \$4.73 million. These funds were remitted to the New Jersey Clean Energy Program for use toward additional solar projects as required by the RPS rules.

By comparison, while total statewide retail electric sales in New Jersey were greater in Energy Year 2007, the lower RPS solar percentage requirement of 0.0393% lead regulated entities to procure slightly more than 31,000 SRECs and make 1232 SACP payments for \$369,600 remitted to the NJCEP for additional solar rebates.

- **According to current projections, how much would Solar RECs cost New Jersey ratepayers in the aggregate in 2020? How much would Solar RECs cost the average ratepayer in 2020?**

BPU RESPONSE:

Rules adopted by the Board in March cap the total cost of all solar incentives, including the cost of SRECs, at two percent of the total retail cost of electricity. The dollar amount of this cap depends on how much electricity is used and the price of

Discussion Points (Cont'd)

that electricity. If the cap is not triggered in 2020, OCE estimates a maximum SREC cost to ratepayers in 2020 of \$1.077 billion assuming (i) the Energy Master Plan recommendation is implemented to change the 2020 RPS target from 2.12% of retail electricity sales under current rules, to 2,120 GWh by 2020; and (ii) the SACP levels continue their trend downward from this year at \$711 to \$493 per MWh in 2020. However, achieving the 2020 goal will depend on continuing the substantial improvements in the cost of solar technology, since without those improvements the two percent cap on solar incentive costs would be triggered.

- **Please explain the rationale for relaxing the limitations on the rebate program for solar installations with a capacity of less than 50 kW. For which reason(s) has the BPU decided to make an additional \$50 million available in 2008, provide funding for additional rebates in 2009, and reopen the application process? What is the impact of the loosened restrictions on the Clean Energy Program's funding levels from 2009 through 2012? Does the BPU anticipate funding rebates beyond the levels stipulated therefor in Board Order No. EO07030203? If so, please indicate the revised funding levels.**

BPU RESPONSE:

The Board has attempted to balance the imperative to install solar at the least cost to ratepayers with the goal for achieving robust participation of all classes of customers in NJ's solar marketplace. From stakeholder input and modeling performed in the BPU's "solar transition" proceeding, the Board acknowledged the need to continue rebates for small solar systems and directed staff to develop recommended rebate levels. Staff does not view the plans to continue providing rebates to projects less than 50 kW as "relaxing limitations" or "loosening restrictions" but rather as a leveling of the incentive playing field between these smaller projects and much larger projects that enjoy considerable economies of scale.

At this time, BPU Staff foresees no need to further adjust the rebate funding levels. The \$53.25 million of funding established for 2009 through 2012 together with the \$116 million budgeted in 2008, the higher SACP levels, and the SREC based financing programs developed by the Electric Distribution Companies are anticipated to be sufficient incentive to drive the NJ solar industry to reach the installed capacity goals established in the state's Renewable Portfolio Standard.

- **After the expiration of the rebate program for small solar systems in June 2012, will the solar system incentive program still provide economically meaningful incentives for homeowners to install solar systems on their rooftops? Has the philosophy of the program shifted to attracting large-scale investments in solar power and spurring the growth of a solar power industry in New Jersey?**

BPU RESPONSE:

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Achievement of the ambitious RPS solar goals will not be possible without significant contribution of large scale investments in solar power. However, the Board remains committed to robust participation in the NJ solar marketplace by all rate classes. The BPU established a funding level of \$6.75 million for small solar systems to be made available in calendar year 2012. It is also expected that some additional budget may become available during 2012 for small solar as a result of projects that had previously received a rebate commitment but did not complete construction in the allotted timeframe. New Jersey will require from 280 to 330 MW of total installed capacity in Energy Year 2012 and from 345 to 430 MW in EY13 depending upon the level of retail electricity sales. With nearly 90 MW installed in NJ today, the achievement of these levels of installed capacity will require the robust participation of all rate classes in NJ's solar market.

11. On pages 53 and 54 of Board Order No. EO07030203, the BPU estimates that the **cost of its energy efficiency and renewable energy programs** would represent 2.59 percent of projected electricity revenues in 2009. The breakout of the \$282.7 million cost is as follows: \$169.1 million raised through the societal benefits charge, \$70.0 million cost of CO₂ emissions allowances under the Regional Greenhouse Gas Initiative, \$42.2 million cost of Solar Renewable Energy Certificates (Solar RECs) sold to electricity suppliers, and \$1.4 million cost of PSE&G's Solar Loan Program. Additional costs are possible in the future for other utility programs promoting energy efficiency and renewable energy. All but the \$169.1 million raised through the societal benefits charge are embedded in the base rates that utilities charge electric ratepayers.

- **Questions:** Please project the impact on electric rates of the board's energy efficiency and renewable energy programs in 2012. In 2012, what would be the estimated cost of the electric funding level through the societal benefits charge, CO₂ emissions allowances under the Regional Greenhouse Gas Initiative, Solar Renewable Energy Certificates, PSE&G's Solar Loan Program, and other utility programs promoting energy efficiency and renewable energy? The total cost would represent what percentage of estimated 2012 electricity revenues? Which percentage of electricity revenues does the BPU deem to be a reasonable burden on ratepayers to finance energy efficiency and renewable energy programs?

There are currently too many unknowns to make an estimate of the costs for 2012. There is projected the transition of the energy efficiency programs to the utilities per the Energy Master Plan, the development of offshore wind, the establishment of long-term financing for solar, national efforts to control carbon emissions and the timing and magnitude of the national and state recovery from the recession. The BPU has not established a fixed percentage that ratepayers should pay for energy efficiency and renewable energy programs, except to cap the solar percentage at two percent.

As part of the Comprehensive Resource Analysis for the Energy Efficiency and

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Renewable Energy program funding levels for 2009 through 2012, BPU staff with data provided by the Center Energy, Economic and Environmental Policy (CEEPP) at Rutgers establish the impact on electricity customer bills for 2009 through 2012.

This included the four year cost for energy efficiency and renewable energy for New Jersey's Clean Energy Program, the Department of Environmental Protection's estimate of the impact of the Regional Greenhouse Gas Initiative (RGGI) on wholesale power prices, the cost of Solar Renewable Energy Certificates (SRECs) needed to comply with the solar renewable portfolio standard, the and the costs of PSE&G's Solar Loan Program and "Carbon Abatement" Energy Efficiency program. The Board has also approved programs for ACE and JCP&L to enter into long-term contracts to buy SRECs; those programs are not expected to increase costs to customers and may well reduce the cost that customers bear for compliance with the solar renewable portfolio standard.

The total electricity bill for an average homeowner using approximately 9,000 KWh of electricity per year is \$1,053 per year. Of this amount, \$26.10 (1.93%) is attributable to the cost of energy efficiency programs, and \$17.87 per year (1.37%) is attributable to the cost of renewable energy programs.

All the electric and natural gas utilities have filed Energy Efficiency petitions, which are still being litigated before the Board; the impact of those energy efficiency programs will depend on what programs the Board approves, and the nature of the cost recovery mechanisms the Board approves under N.J.S.A. 48:3-98.1. In addition, PSE&G has filed a petition to extend and update its solar loan program, and Rockland Electric has filed a petition for approval of a solar loan program as well.

- **Has any utility filed an application to operate an energy efficiency and renewable energy program besides PSE&G's Solar Loan Program? If so, has the board approved the program? Please briefly describe the program.**

Yes. Working with stakeholders last summer, it was determined that the remaining missing ingredient to an effective solar financing program was long-term contracts. While it has been anticipated that those entities responsible for the RPS would enter into such contracts to obtain a more favorable SREC price, this has not occurred to a significant extent. To address this situation, the Board required NJ's regulated electric utilities to develop programs in which they would enter into long-term contracts for the purchase of SRECs, which would then be sold to the electricity suppliers that have to comply with the state's RPS. The program for the Jersey Central Power and Light and Atlantic City Electric service territories was approved by the Commissioners on March 27th, and the process for issuing long-term contracts through these companies will commence by mid-July. Financing programs for Rockland Electric and PSE&G have been submitted and need to be negotiated over the next several months.

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12. The Energy Master Plan (EMP), released in October 2008, lays out plans for New Jersey to generate at least 1,000 MW of offshore wind energy by 2012. By 2020, the EMP calls for the production of 3,000 MW of **electricity from offshore wind** and of at least 200 MW from onshore wind. In December 2008, the BPU awarded three offshore wind developers each a \$4 million rebate towards the construction and operation of meteorological towers to support offshore wind projects, provided a meteorological station was operating at each site by the end of 2009 and supported a wind farm generating at least 200 MW of energy. The awarding of three \$4 million rebates to wind power developers marked a departure from the previous policy, based on a recommendation by the Blue Ribbon Panel on Development of Wind Turbine Facilities in Coastal Waters, of undertaking a single offshore wind turbine test project. Under the initial pilot project, the BPU awarded \$4 million to a wind power developer. The pilot project having been jettisoned, the developer instead received one of the three \$4 million rebates to support the construction and operation of meteorological towers.

Two complications may slow down the construction of offshore wind power facilities off New Jersey's shores. First, the three meteorological towers would be constructed in federal waters, which begin three miles off the State's coast. The Minerals Management Service (MMS) in the United States Department of the Interior must hence approve these projects under the Energy Policy Act of 2005. But although the MMS has released proposed rules for offshore wind energy activities, as of March 2009, it has not yet issued final rules. Second, in February 2009, the New Jersey Department of Environmental Protection released draft *Ocean/Wind Power Ecological Baseline Studies*, a report concluding that the construction and operation of offshore wind turbines and transmission lines will harm avian species, fish, marine mammals, and turtles.

- **Questions: Please explain the reasons behind the policy shift that has led to the BPU awarding three wind turbine facility developers a \$4 million rebate concurrently instead of providing financial support to a single pilot offshore wind project, as recommended by the Blue Ribbon Panel on Development of Wind Turbine Facilities in Coastal Waters. How does the BPU fund the additional \$8 million in rebates? Has the board revised the Clean Energy Fund program budget to accommodate the \$8 million in additional rebates?**

The change from a single project to multiple projects resulted from the release of the Energy Master Plan in October. It would not have been possible to achieve the 1,000 MW goal if the single pilot project was developed. The funding for the offshore wind meteorological stations was included in the 2009 Clean Energy Fund program budget.

- **Please comment on the State's ability to attain the Energy Master Plan offshore wind goal for 2012 given the delayed release of final rules for offshore wind development facilities in federal waters by the Minerals Management Service (MMS). Considering the final rule delay, when are the meteorological towers for which the BPU has awarded rebates projected to be installed and**

Discussion Points (Cont'd)

operating? If the towers are not completed by the end of 2009, will the BPU extend the timeline for construction and operation and will the rebates still be available to the three proposed projects?

BPU staff is working closely with the offshore wind developers, DEP, Minerals Management Service and the Army Corp of Engineers to address issues as they occur. We will know in the next couple of months whether the meteorological stations can be installed this year. If they are not installed this year the developers can request that the Board extend the rebate deadline. This decision would be made by the full Board.

- **Please explain whether, and if so how, the Department of Environmental Protection's draft *Ocean/Wind Power Ecological Baseline Studies* will affect the three offshore wind projects underway. Does the BPU expect to see the projects, including the meteorological towers, continue within the expected timeframe or will the report cause delays to that schedule? What measures is the board taking to protect wildlife in developing offshore wind energy? With regard to the protection of wildlife in particular and to the development of offshore wind energy facilities in general, please describe the extent and nature of the cooperation between the BPU, the federal MMS, the New Jersey Department of Environmental Protection, and offshore wind developers.**

As stated above, BPU staff is working closely with the developers and DEP on all facets of offshore wind development. The data collected and being collected by DEP will help to identify environmental issues that need to be addressed by the current proposed projects as well as the additional projects that will be needed to meet the 3,000 MW target. Once the MMS final rules are released we will know the environmental work that will be required to meet the federal permitting requirements. The DEP report is not anticipated to delay the development of offshore wind farms. Any wind farm that is built will have to comply with federal and State requirements to protect wildlife.

- **How have tightened credit markets impacted offshore wind developers? Will the credit crunch necessitate a modification to the State's offshore wind goals?**

BPU staff has worked with an Offshore Wind Development Working Group to develop a financing approach that would allow for offshore wind farms to obtain the financing needed to construct the facilities. Regulations to codify this approach are under development and will be proposed later this year. The financing approach that has been developed is designed to provide a steady revenue source to the offshore wind developers and therefore, the projects that are selected to receive that revenue should be able to obtain financing.

13. The Energy Master Plan includes a statement that the BPU will continue to challenge in the federal courts the **Reliability Pricing Model (RPM)** implemented by PJM Interconnection. The BPU also intends to work with PJM and the Federal Energy

Discussion Points (Cont'd)

Regulatory Commission to modify or replace the RPM with a mechanism that focuses incentives on new generation capacity, demand response, and energy efficiency. PJM operates the regional electricity transmission system and administers regional wholesale electricity markets for a 13-state area including New Jersey. Fearing electricity shortages, PJM introduced the RPM in 2007 to increase capacity payments to power plant owners (basically payments for the right to call upon the plant, which are in addition to payments for electricity actually generated). The RPM is meant to guarantee power plant operators a revenue level sufficient to invest in new plants and not to retire existing ones. As a result, capacity costs now account for 15 to 20 percent of New Jersey electricity prices and capacity prices for the five years from July 1, 2007 through June 30, 2012 will cost New Jersey ratepayers \$7 billion more than under previous rules. The BPU contends that the RPM is excessive, as it spreads capacity payments indiscriminately all-round as opposed to targeting specific power plants.

- **Questions:** Please explain the grounds for BPU's dissatisfaction with the Reliability Pricing Model (RPM) implemented by PJM Interconnection. Please also comment on the challenges the BPU filed against the RPM in federal courts. What constitutes the legal bases for the challenges? What has been the outcome of the litigation to date? Please expound the nature of BPU's RPM-related advocacy before PJM and the Federal Energy Regulatory Commission. What program changes is the BPU lobbying for and what have been the results of these efforts to date?

BPU RESPONSE:

The Board has opposed the Reliability Pricing Model ("RPM") since it was first being litigated before the Federal Energy Regulatory Commission ("FERC"). From the beginning, it was clear that RPM would impose a heavy cost on New Jersey electricity customers; the first five years of RPM will cost New Jersey customers over \$7 billion. What was not clear was whether RPM would achieve its goal of bringing more electric generation to the places, such as New Jersey, southeastern Pennsylvania, Delaware, Maryland, and the Washington DC area. Results have borne out the Board's concern over RPM's effectiveness; very little new generation capacity has come to market.

The legal challenge was based primarily on the FERC's grant of market-based rate authority in approving the RPM market construct for the sale of capacity, rather than having the FERC set such rates itself. The FERC must normally determine first that a competitive market exists before granting such authority, but did not make any such finding before approving RPM. The BPU worked with state utility commissions in several other states, state consumer advocates, and representatives of large energy users in appealing the FERC's approval to the DC Circuit Court of Appeals; while that appeal was pending, a decision in another case undermined our arguments on market-based rate authority. As a result, the appeal was withdrawn.

Discussion Points (Cont'd)

The BPU has had more success with RPM-related advocacy before PJM and the FERC. In its request for rehearing of the FERC's approval of RPM, the BPU persuaded the FERC to order PJM to allow energy efficiency to participate in RPM as a capacity resource. The BPU then led coordinated state action in a PJM stakeholder process to develop the means for energy efficiency to be included in RPM. That advocacy led to changes in PJM's proposal, which would have discounted the value of energy efficiency by 25% each year, and ensured that energy efficiency would be given full value for four full years. In March, the FERC approved that energy efficiency proposal, for implementation in the next RPM auction in May 2009.

In January 2008, PJM proposed changes to RPM which were expected to double its cost. The BPU helped to form a coalition among state utility commissions in several other states, state consumer advocates, and representatives of large energy users, which successfully persuaded the FERC to reject PJM's proposal.

Other improvements to RPM that the NJBPU helped to negotiate promise lower RPM costs and better results. Some of those improvements were approved by the FERC in February 2009, while others are still being litigated before the FERC.

14. Growth in peak electricity demand pushes up energy costs by necessitating investments in additional transmission lines and electricity generators. One of the goals of the Energy Master Plan is therefore to reduce peak demand. Most of the reduction should come from energy efficiency initiatives and the promotion of cogeneration. But the Energy Master Plan also calls for the **piloting of different technologies and rate structures to determine the best way to achieve peak demand reductions** for residential customers and all customers with a peak demand below 500 kilowatt. The pilots are supposed to help clarify how customer behavior changes with different rate structures, communication networks, and end-user technologies such as smart meters (track volume and time of customers' electricity usage, which information allows ratepayers to better manage their energy costs) and advanced metering infrastructure (systems that measure, collect, and analyze energy usage, from an advanced electricity meter, through various communication media; permitting consumers, suppliers, and service providers to participate in price-based demand response programs). The BPU will design these pilot structures.

- **Questions:** Please provide an update on BPU's activities towards determining the best way to achieve peak electricity demand reductions for residential customers and all customers with a peak demand below 500 kilowatt through different technologies and rate structures. What programs in other states has the BPU examined? What pilot programs is the BPU implementing or is planning to implement? Which pilot programs is the BPU rejecting and for what reason(s)?

BPU RESPONSE:

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In addition to the permanent reductions in demand realized through energy efficiency, temporary reductions in demand can be created through an effective use of demand response (DR) programs.

In July 2008, the Board directed each of the state's four electric distribution companies (EDCs) to file proposals for programs that would achieve a statewide goal of 600 megawatts (MW) of DR within three years. Final settlement conferences involving the EDCs, Board staff and Rate Counsel are presently underway with the expectation that the first round of programs will be launched by this summer. These are programs aimed primarily at residential and small commercial customers, generally involving central air conditioning cycling. The second phase of programs – primarily aimed at larger commercial and industrial customers and involving more sophisticated and costly energy storage technologies – will be analyzed on a timetable that will allow for implementation by June 2010.

As these proceedings were progressing, the Board sought to jump-start the DR market in New Jersey by approving a program that offered premium payments to curtailment service providers (CSPs) who registered new or incremental DR for the period beginning June 1, 2009. The program was very successful, resulting in 207 MW of new or incremental DR – a 61% increase over current levels. That number could still increase, since the deadline for registering DR for the upcoming energy year has just been extended to May 1.

In terms of rate structures, the Board will be closely monitoring a pilot program this summer that it recently approved for JCP&L. Under this pilot, residential customers will be encouraged to reduce peak summer demand by a 9-cent per kilowatt hour (kWh) surcharge on monthly usage in excess of 2,500 kWh. Commercial and industrial (C&I) customers will be subject to a peak demand charge of \$5.94 per kW in excess of 10kW. A separate program for C&I customers with low load factors in congested circuit areas will be implemented to improve their load factors. This program is revenue neutral, since the summer surcharges will be offset by winter discounts. However, it will be interesting to see how these summer surcharges impact peak usage and drive customers toward energy efficiency (EE) and DR programs.

The Board's Energy Division and its Ombudsman's Office have convened a working group that is presently conducting meetings to determine how customers can be incentivized to participate in DR and EE programs through rate design or other means. A final report is expected this summer.

15. Aiming to encourage utility companies to accelerate infrastructure improvement and energy efficiency projects, the BPU has instituted an expedited approval process for **Economic Stimulus Utility Filings** as a means to buoy the State's economy. The proposed schedule for Economic Stimulus infrastructure proceedings

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anticipated BPU action on utility filings on April 3, 2009 and for Economic Stimulus energy efficiency proceedings on June 9, 2009. The initiative stems from the Governor's October 16, 2008 address to the State Legislature in which he directed the commissioners of several State agencies, including the BPU, to authorize the acceleration of capital spending projects.

- **Questions:** What is the total value of infrastructure and energy efficiency Economic Stimulus Utility projects for which utility companies are seeking approval under BPU's expedited approval process? Is the BPU on schedule to act on the proposed project lists on April 3 for infrastructure projects and June 9 for energy efficiency projects?

BPU RESPONSE:

BPU staff, Rate Counsel, and all of the utilities except for Jersey Central Power & Light and Rockland, have negotiated stipulations of settlement on the utilities' infrastructure economic stimulus projects that were accepted by the Board at a Special Board meeting on April 16, 2009. The total value is nearly \$1 Billion, as summarized below:

Utility	Investment (in millions)
PSE&G	\$698 (\$406 electric, \$292 gas)
New Jersey Natural Gas	\$70.8
South Jersey Gas	\$103
Elizabethtown Gas	\$60.4
Atlantic City Electric	\$33.1
Jersey Central Power & Light	\$51
Totals	\$956 Million

The Board continues to expect to take action on the energy efficiency economic stimulus programs for PSE&G and the three other gas utilities in June; action for the Atlantic City Electric and Rockland Electric filings, which were filed later, should be completed by late August. The date for final action on Jersey Central Power & Light's filing will depend on when that utility completes its filing. The total value of the utilities' programs is \$305 million, as summarized below:

Utility	Investment (in millions)
PSE&G	\$190
New Jersey Natural Gas	\$23
South Jersey Gas	\$17
Elizabethtown Gas	\$15
Atlantic City Electric	\$10
Rockland Electric	\$3
Jersey Central Power & Light	\$47
Totals	\$305 Million

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- **What is the average duration of the regular approval process for utility infrastructure and energy efficiency projects? Please explain how the expedited process differs from the regular process, indicating the amount of time that is saved for each aspect of the regular process that is modified under the expedited process? Considering the recent decline in staffing levels, does the BPU have the capacity to thoroughly vet the proposed projects under the expedited timetable? If so, is the BPU shifting resources from other programmatic areas to the expedited approval process to realize its goals? If so, please indicate to which extent the expedited process is impeding the performance of the BPU in other areas.**

BPU RESPONSE:

The utilities generally do not seek approval in advance of undertaking infrastructure projects in the ordinary course of their business. Typically, these projects are subject to after-the-fact reviews of their prudence in the course of a rate case, although the utility can generally feel relatively confident that the Board will not find typical infrastructure investments to be imprudent. The infrastructure projects that are the subject of the economic stimulus effort are being handled differently due to their collective size, and the desire of all parties for certainty about the utilities' cost recovery in advance.

For energy efficiency projects, P.L. 2007, c.340 requires Board action within 180 days after the filing of a complete petition. The proposed June schedule allows about 45 days less than that. The expedited process depends on the ability to reach a settlement without the need for evidentiary hearings. If such hearings prove to be necessary, Board action before July is unlikely.

Notwithstanding the recent decline in staffing levels, the BPU staff is not compromising its thoroughness of its reviews of these economic stimulus filings. Some shifting of resources is occurring, with staff members from outside the BPU's Energy Division providing supplemental support. Within the Energy Division, the Office of Clean Energy, the Office of the BPU's Chief Counsel, and the Attorney General's Division of Law, staff members are simply working hours that are well beyond the standard work week.

16. On pages 83-4, the Energy Master Plan (EMP) discusses the anticipated growth in "**green collar jobs**" in this State as a direct result of the need to meet the EMP's "aggressive targets for energy efficiency, renewable energy, demand response, and new generation." Specifically, the EMP cites an economic impact

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calculation according to which implementation of the EMP would result in \$33 billion of investment into the energy infrastructure of New Jersey and the attendant creation of 20,000 additional jobs through 2015. The EMP states that the State would have to develop measures to train and prepare the green collar workforce needed to meet prospective demand.

- **Questions:** What are the most significant areas for green job growth in this State and what is the timeframe expected for these jobs to emerge? Where are the jobs geographically located throughout the State? How is the BPU working with the Department of Labor and Workforce Development to prepare the workforce to help meet the State's clean energy goals? With regard to the development of offshore wind, how many permanent and temporary jobs are expected to be created and what are the most common types of jobs to be created?

BPU RESPONSE:

The most significant areas of job growth will be in energy efficiency sector and the demand for these jobs will occur on a graduated basis beginning now and growing significantly in the next 12-36 months as a result of the combination of EMP implementation; Federal stimulus program dollars; and, pending infrastructure improvement and energy efficiency initiative programs by our electric and gas utility companies.

The jobs will be located throughout the State but demand will be more highly concentrated in industrial and urban centers. There are two main types of jobs included in the Energy Master Plan assumptions: One-Time, 12-month installation jobs, including construction; and Annual (permanent) operation and maintenance jobs, including plant maintenance, energy efficiency audits, and energy efficiency installations. These jobs include: Solar manufacturing; Energy audit contractors; HVAC installers; and, Smart grid technology installations.

BPU is currently partnering with Commissioner Socolow and the Department of Labor and Workforce development on aligning Utility regulation and Clean Energy program policy with the types of training programs that will be in demand as a result of Board action. For example the Department of Labor (who can elaborate further on this) has a partnership with ISLES in Trenton that operates a Clean Energy Educational Training center that prepares a workforce of entry-level energy efficiency auditors. Auditors will be in higher demand because of the Clean Energy Programs such as Whole Performance w/Energy star that offers home audits and incentives to finance the remediation efforts in home weatherization improvements. Again, we're working with Labor to estimate demand for the type of jobs and Labor sets out the training programs to fit that demand.

This is just the beginning of our intentions to align ourselves with efforts at Labor and educational institutions throughout the state to help develop curriculum and

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certification programs necessary to meet the current and future need of employers in the fields of energy efficiency and renewable energy. Please also note that organized labor also has apprenticeship programs for their existing workforce (many of whom are unemployed) where they take traditionally blue-collar trained electricians, HVAC, roofers, etc and retool them into green-collar workforce.

With regard to job demand in the area of Off-Shore wind, Board staff is working with EDA to identify the manufacturing and construction jobs needed to support offshore wind development and determine what portions New Jersey can attract. Many of these types of jobs are existing skilled mechanics, longshoremen and may not be great in multitude but just as important to expanding employment opportunities in the state in several different areas depending on the technology.

17. Public Service Enterprise Group (PSE&G) has petitioned the BPU to grant approval for the **Susquehanna-Roseland power line expansion** project. If implemented, the project would result in the construction of 150 transmission towers throughout the 45-mile right-of-way between the Delaware Water Gap and Roseland, essentially doubling the size of power lines running through 15 Highlands communities. The power grid upgrade would cost \$2 billion and needs the approval of the BPU and a waiver from the Highlands Council. PSE&G contends that the expansion of power-line carrying capacity is crucial if New Jersey wants to meet its growing power demands in the near future. Environmentalists stand opposed.

- **Questions:** Please indicate by which date the BPU intends to rule on PSE&G's application for the Susquehanna-Roseland power line expansion. Does the project fall under the expedited approval process for economic stimulus utility filings? If not, for which reasons does the project not qualify for an expedited review? To which extent does the BPU take environmental considerations into account when reviewing applications such as the one for the Susquehanna-Roseland power line expansion? Does the BPU have the necessary expertise to properly assess the environmental ramifications of the Susquehanna-Roseland power line expansion? Does it consult with the Department of Environmental Protection in such matters? Is the BPU coordinating its project review with the Highlands Council?

BPU RESPONSE:

The procedural schedule that the BPU has approved for PSE&G's Susquehanna-Roseland application calls for a decision in December 2009.

N.J.S.A. 48:3-98.1 establishes an expedited approval process for electric and gas utilities petitioning the BPU for approval of cost recovery for energy efficiency, conservation, and renewable energy projects and programs. The law requires the Board to approve, reject, or modify such a petition within 180 days after a complete petition was filed; if the Board does not do so, then the recovery requested by the

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utility is deemed to be granted on the 181st day after the filing. The petitions by the seven electric and gas utilities to implement energy efficiency/economic stimulus programs are covered by this law; PSE&G's petition to the Board is not filed under a law providing for such expedited review.

Specifically, PSE&G has petitioned the Board under N.J.S.A. 40:55D-19, requesting that the Board issue an order that no municipal land use ordinances or regulations shall apply to the Susquehanna-Roseland project. N.J.S.A. 40:55D-19 does not establish a deadline for board action on the petition. The Board approved the procedural schedule for PSE&G's petition recognizing that the company had sought to expedite the schedule, while affected municipalities and other intervenors sought to provide more time for the matter to be heard.

The BPU can take environmental considerations into account when reviewing PSE&G's petition, pursuant to its authority under N.J.S.A. 40:55D-19 to determine, after hearing, whether the project "is reasonably necessary for the service, convenience or welfare of the public." Environmental considerations are relevant to the public's convenience and welfare. For example, the Board has previously directed that for petitions under N.J.S.A. 40:55D-19 for improvements to the electric transmission system across multiple municipalities, BPU Staff must seek information from the parties to enable the Board to evaluate the effect of the project upon "statewide greenhouse gas emissions" – which N.J.S.A. 26:2C-39 defines not only to include emissions of greenhouse gases from all sources within the State, and but also to include emissions from electricity generated outside the State but consumed in the State.

The Board recognizes that the expertise required to evaluate many of the environmental impacts of the Susquehanna-Roseland project resides with the Department of Environmental Protection and the Highlands Council. PSE&G is seeking permits and approvals from those agencies, which will evaluate environmental impacts under their own statutory authorities. The DEP, the Highlands Council, and the BPU are keeping one another apprised of their respective reviews of the project. However, each agency has a separate statutory mandate with regard to the transmission line. Therefore, each agency's determination is separately and independently made.

NOTE: The upgrade estimate costs are \$1 billion, not \$2 billion as assumed in the question.

18. The 2008 New Jersey Energy Master Plan proposes spending \$90 million in accrued **Retail Margin Fund** balances to provide incentives to industrial facilities so that they erect plants to cogenerate electricity and heat. This marks a change of heart. In reply to an OLS discussion point in the FY 2007-2008 Department of the Treasury Budget Analysis, the BPU indicated that the funds were to support programs targeting customers in the Commercial Industrial Energy Price (CIEP) class and customers with a peak load share of at least 750kW: a \$6 million load management

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program to reduce peak time energy consumption in areas with energy transmission and distribution congestion constraints; a \$15 million energy audit program that would also help customers implement audit recommendations; a \$3 million allocation to develop a program that would prepare building operations and maintenance staff at CIEP facilities for certification in energy and resource efficient building systems; and a yet-to-be-designed program supporting distributed generation projects.

The Retail Margin Fund also finances the **BPU Office of the Business Energy Ombudsperson**, an office created by P.L.2005, c.215 (C.48:2-92 et seq.) with a FY 2010 budget of \$451,000 (page C-17). The office functions as a centralized resource for businesses to obtain information and assistance on energy costs, programs, and subsidies to lower their energy consumption. In response to Discussion Point #46 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU stated that in pursuit of its mission the ombudsperson had repeatedly collaborated with the Office of Economic Growth to foster economic development. The 2008 New Jersey Energy Master Plan now also instructs the ombudsperson to target commercial and industrial customers with a peak demand of at least 500 kW for peak demand reductions and to develop incentives to that effect. In addition, the plan calls on the ombudsperson to create best practice manuals for up to ten industry sectors featuring recommendations for energy efficiency improvements and to select representative facilities for energy audits. The first manual was to cover local governments.

The Governor's FY 2010 Budget anticipates \$17.9 million in new Retail Margin Fund revenues for FY 2010 as well as an opening balance of \$125.0 million and \$60.4 million in expenditures, leaving a projected fund balance of \$82.5 million at the end of FY 2010 (page H-8). Administered by the BPU, the fund is expected to receive \$15.9 million in FY 2010 from the 0.5¢ per kilowatt-hour retail margin that electric distribution companies have been charging certain non-residential customers remaining on Basic Generation Service since August 2003 under sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57).

- **Questions:** Please detail the Retail Margin Fund's actual or estimated fiscal year 2009 and 2010 expenditures, indicating which sums the BPU intends to spend on each activity and program supported by the fund. Please outline the contours of the cogeneration development incentive program to which fund balances are intended to be applied. Is the BPU abandoning the programs which it had previously meant to finance out of the fund (see above for details)? If not, please explain with which initiatives the BPU is proceeding and which alternative funding sources sustain them.
- Please outline the work performed by the BPU Office of the Business Energy Ombudsperson in the last 12 months, including any accomplishments. Please explain the nature of the office's collaboration with the Office of Economic Growth. How often does the office become an explicit part of the State's activities to foster economic development?

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- Does the BPU Office of the Business Energy Ombudsperson have sufficient resources to assume the responsibilities imposed on it by the 2008 New Jersey Energy Master Plan? If not, what will be the funding source of the additional spending, if any? Has the office already developed incentives that achieve peak demand reductions for commercial and industrial customers with a peak demand of at least 500 kW? If so, please describe the incentives. If not, by which date does the office intend to have the incentives designed? Has the office already created the best practice manual featuring recommendations for energy efficiency improvements for local governments? If so, is the office aware of local governments implementing the recommendations? If not, by which date does the office envision completing the manual? What other best practices manuals is the office currently crafting or plans to craft in the near future?

BPU RESPONSE:

1) The only expenditure out of the Retail Margin Fund (RMF) for FY2009 was for the operation of the Office of Business Energy Ombudsperson (OBEO). Additional funds are expected to be allocated in FY2010 due to the recent passage of A2507/S1932: which authorizes the BPU to use revenue from retail margin assessed to support the development of combined heat and power, energy efficiency and demand response projects.

The "contours" of the cogeneration program are outlined in a solicitation that was prepared by the OBEO in anticipation of the legislation's approval. The solicitation is receiving final review at this moment by the NJ Economic Development Authority. In a nutshell, CHP projects must be between one and 25 megawatts (MW); CHP projects will be required to meet a combined electrical and thermal efficiency of 65% up to 20 MW electric output and 70% efficiency for projects over 20 MW electric. At a minimum the thermal energy must meet the necessary quantity to contribute to this required overall efficiency standard.

The BPU isn't abandoning any of the programs it previously proposed to finance. Recognizing that not all customers are good candidates for CHP, the legislation permits the BPU to spend RMF revenue on energy audits, energy efficiency and demand response measures for eligible customers.

2) Here is a brief summary of OBEO's 2008 achievements:

- OBEO took the lead in the BPU's efforts to achieve the demand response goals outlined in the Energy Master Plan (900 megawatts by 2020). Working with the Energy Division, OBEO reconvened and chaired a working group which presented a plan to the Board for jump-starting demand response in New Jersey by offering premium payments for capacity registered for the

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2009 energy year. The Board approved the plan at its December 8, 2008 agenda meeting.

- In addition to the initiative described above, OBEO also coordinated the Board's directive to have each of the state's four electric distribution companies submit proposals for demand response programs aimed at all classes of customers. The programs are currently being reviewed by Staff and Rate Counsel.
- OBEO has been working with a number of public and private entities throughout the State to encourage the development of combined heat and power (CHP) to achieve the Energy Master Plan goal of 1,500 megawatts by 2020. From hospitals in Camden and Princeton to Atlantic City casinos; from universities like Rutgers and Montclair State to aviation complexes in South Jersey, the opportunities for CHP keep expanding. OBEO has also been providing input and expertise to legislative efforts that would create financial incentives for CHP development.
- OBEO's outreach efforts to the State's business community have included presentations to and/or participation in the Mid-Atlantic Building and Facilities Management Show; the New Jersey Business & Industry Association's Energy Forum and Issues Breakfast; NJ League of Municipalities' annual conference; the Governor's Conference on Economic and Workforce Development; the NJ Large Energy Users Coalition meeting; the NJ Association of Energy Engineers; the NJ Clean Energy Conference and numerous other events throughout the state.
- OBEO has been working with Rutgers' Center for Advanced Energy Systems on a series of Best Practices Manuals for ten industry sectors. The first of the manuals – focusing on supermarkets and convenience stores – will be ready for distribution shortly. Work will then begin on a manual for local government, as directed by the Energy Master Plan.

The OBEO often collaborates with EDA and OEG on efforts to attract, expand and retain businesses in New Jersey. We recognize that energy issues are a critical factor in any business' decision-making process, and OBEO can provide the expertise on programs and policies that will enable us to use energy as an incentive, rather than a barrier, to doing business in the state.

3) At present the OBEO consists of two full-time employees. The OBEO's enabling legislation authorizes the Ombudsperson to hire additional staff or consultants with funds from the RMF.

The OBEO is working on CHP, demand response and energy efficiency incentives to reduce peak demand for C&I customers with peak loads above 500 kW. These will

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be implemented in accordance with the Energy Master Plan's implementation strategy.

The OBEO is contracting with Rutgers' Center for Advanced Energy Systems (CAES) for the Best Practices Manuals. CAES is completing the first of the manuals (for the supermarket industry), which was contracted for in advance of the EMP's directive to produce a manual for local governments. That is next on the list and should be completed by the end of June. Eight other manuals – for industry sectors including hospitality, restaurants, retail stores, hospitals, higher education and commercial offices – will be completed by the end of calendar year 2009.

19. The BPU is considering revisions to two energy assistance programs under the **Universal Service Fund (USF)**: the USF and the "Fresh Start" credit programs. In FY 2008, their operation cost \$174.4 million, of which "Fresh Start" credits accounted for \$11 million. The USF credit program seeks to ensure that eligible utility customers pay no more than six percent of their annual income for their natural gas and electric service. The "Fresh Start" credit program, on the other hand, allows first-time USF credit recipients with at least \$60 in arrears on their energy bills to retire their outstanding balances by paying their USF-adjusted affordable energy bill in full for 12 consecutive months following program admittance. While New Jersey ratepayers fund the programs via the societal benefits charge included in their electric and natural gas bills, the BPU carries the financial responsibility for the programs, the Department of Community Affairs administers them, and the electric and natural gas utilities credit the benefits to customer accounts.

Based on an April 2006 report entitled "Impact Evaluation and Concurrent Process Evaluation of the New Jersey Universal Service Fund" by the nonprofit Applied Public Policy Research Institute for Study and Evaluation ("APPRISE"), BPU staff suggested numerous USF program modifications to the BPU Board on June 14, 2006. They proposed (a) the elimination of the "Fresh Start" program; (b) the adoption of fixed USF credit amounts so as to shift the risk for fluctuating energy costs and increased energy usage to program beneficiaries; (c) the establishment of performance measures and annual targets to allow for an assessment of the program's effectiveness and efficiency; (d) the creation of an audit program through which the BPU ascertains that all program partners (utilities, the Department of Health and Senior Services, the Department of Community Affairs, the Office of Information Technology, and service providers) have fulfilled their fiscal responsibilities; and (e) since the program serves 49 percent of the eligible population, the removal of barriers to enrollment by implementing a "one-stop shopping" plan for all energy assistance and conservation plans and the pursuit of a centralized, coordinated, and targeted communications strategy. The BPU responded to OLS Discussion Point #50 in the FY 2008-2009 Department of the Treasury Budget Analysis that it was still reviewing the recommendations or in the process of implementing them.

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USF expenditures increased 44.1 percent from \$209.7 million in FY 2008 to \$302.2 million in FY 2009 with a concomitant increase in revenues. The Governor's FY 2010 Budget now anticipates \$332.1 million in USF expenditures for FY 2010, an additional 9.9 percent increase (page H-11). Of this amount, the Governor proposes \$254.4 million in direct fund expenditures as well as a transfer of \$77.7 million to other funds, of which \$72.6 million would finance the "Lifeline Credit Program" (C.48:2-29.15 et seq.) and the "Tenants' Lifeline Assistance Program" (C.48:2-29.31 et seq.), under which 316,540 low-income households would receive up to \$225 in gas and electric utility credits in FY 2010.

- Questions:** Please explain the factors underpinning the anticipated \$92.5 million increase in Universal Service Fund expenditures in FY 2009 and the additional \$29.9 million increase in FY 2010. Does the BPU expect the increases to be temporary or recurring? Given that anticipated USF resources are \$348.9 million in FY 2010, which contrasts with a \$30 million program budget in the 2003 program year, how does the BPU balance the increasing demand for USF energy assistance with the objective of keeping fund expenditures under control? Is there a point at which the BPU would be reluctant to increase the societal benefits charge further to meet the higher demand for energy assistance?

BPU RESPONSE:

The USF program year is not aligned with the state's fiscal year. Instead, the USF rates, renewed in each new program year, are meant to coincide with the heating season, which begins in October. Gas prices are set for the upcoming heating season during the fall as well which then allows for more accurate projections based upon the most current price available. USF rates are adjusted each October because the USF program year (PY) begins in October and ends the following September. USF budgets are projections of expenditures for the upcoming USF PY. The budgets for the last three USF program years are as follows:

- USF PY2006-2007 \$156.4 million
- USF PY2007-2008 \$174.4 million (11.5% increase from prior year)
- USF PY2008-2009 \$248 million (42 % increase from prior year)

Treasury did not provide separate accounts for USF and Lifeline funds, and both reside in the USF Trust Fund. Approximately 25% of the increase in USF PY 2008-2009 is due to a new process which allows those applying for PAAD/Lifeline to be screened for USF via the information provided on the PAAD/Lifeline application.

The Board is cognizant of the impact increasing SBC rates has on ratepayers and is concerned about the cost of the USF program as well. While it has not yet specified a dollar threshold for taking drastic action, during last year's USF

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budget proceeding, the Board requested that staff seek input regarding cost saving measures.

USF benefits are based upon not only income, but also the household energy burden. Unlike the Low-Income Home Energy Assistance Program (LIHEAP) and Lifeline, there is not a fixed benefit with a specific budget. USF households each receive a benefit unique to their individual circumstances, with those most in need receiving the highest benefit. Additionally, the previous year's budget is trued up during the compliance filings in the following year to account for over and under recoveries that are an inevitable part of the program due to its design.

Staff is currently working with stakeholders on a mechanism to control costs by tying the receipt of USF benefits to energy efficiency measures. By educating USF recipients about smart energy usage and offering free weatherization services, not only will these homes be more comfortable, but energy use will decrease and program costs will be reduced as well. A stakeholder meeting will take place on April 29, 2009 concerning weatherization for both USF and LIHEAP clients and be brought to the Board for a final decision soon thereafter, with the goal of having a process in place by the fall of 2009.

- **Please provide FY 2008 and FY 2009 funding data for the USF proper and the "Fresh Start" program.**

BPU RESPONSE:

The USF is funded by a per therm charge to gas bills and a per kilowatt charge to electric bills for customers of the state's seven major gas and electric companies: Elizabethtown Gas, New Jersey Natural Gas, South Jersey Gas, Atlantic City Electric, Jersey Central Power and Light, Rockland Electric Company and Public Service Electric & Gas. The money is collected via the societal benefits charge (SBC). Each month, the utilities provide a calculation of the prior months' USF credits distributed and the collections from the SBC. The SBC amount attributed to the USF is directly deposited by the utilities into the USF Trust Fund, which is maintained by the Department of Treasury. BPU staff then reconciles the deposits against the disbursements for USF credits and the appropriate amount is wire-transferred back to the utilities to compensate for the prior months' USF credits.

The USF program budget for the period between October 2008 and October 2009 is approximately \$248 million. The Board approved this amount, based on energy usage information for USF recipients during the 2007-2008 program year that was compiled by the energy utilities, in its October 21, 2008 Order Approving Interim USF Rates and Lifeline Rates.

Discussion Points (Cont'd)

As of November 1, 2008, the USF rates are \$0.021700 per therm and \$0.00230 per kWhr.

The Board approved interim USF rates (including sales and use tax [SUT]) of \$0.0167 per therm and \$0.01300 per kWhr in order to recover an approximate \$174.4 million USF budget in October of 2007. \$10.8M of this amount was allocated for Fresh Start. During October of 2008, the Board approved interim USF rates (including SUT) of \$0.021700 per therm and \$0.00230 per kWhr to recover a budget of \$248 million USF budget, with \$12.17M of this amount allocated for Fresh Start.

USF revenues only support the USF program. While revenues for the Lifeline program are collected through the SBC, there is a separate rate charged for these funds and they are clearly distinguishable from USF rates collected.

The table below illustrates a comparison of actual expenditures for the 2007-2008 PY with the utilities projected expenditures (utilizing estimated data for 2 months) for the 2007-2008 PY.

	Projected Expenditures	Actual Expenditures
07-08 Fresh Start Credits	\$12.17 million (Approx)	\$12.2 million (Approx)
07-08 USF Credits	\$161.9 million (Approx)	\$160.7 million (Approx)
07-08 Electric Credits	\$94.5 million (Approx)	\$94.1 million (Approx)
07-08 Gas Credits	\$67.4 million (Approx)	\$66.6 million (Approx)

- Please provide a status report on the modifications to the Universal Services Fund (USF) energy assistance programs advanced by BPU staff. Which recommendations has the Board approved, which has it adopted in amended form, and which has it rejected? For each recommendation, please describe the rationale for the Board's determination. Please provide a detailed explanation of each change the Board intends to apply to the credit programs as well as a timeline for its full implementation. If the Board has not yet acted on the recommendations, please explain the cause(s) of the inaction and indicate, if possible, by which date the Board intends to consider the matter.**

BPU RESPONSE:

The USF program is reviewed by staff on a regular and consistent basis and appropriate changes are made in response to a number of factors, including recommendations made in the APPRISE report, suggestions from the USF Working Group and other interested parties, and partnerships with other state agencies working together with the Board to assist low-income households in our state.

Discussion Points (Cont'd)

The APPRISE report provided extremely valuable information. However, changes in the USF program and related programs have resulted in staff refocusing its efforts on other pieces of the APPRISE report. Staff's original straw recommendations were never meant to be considered as the only direction for the USF program, which is a fluid program and requires updates and changes on a regular basis.

The primary focus over the last year has been to work with other state agencies in moving closer to the goal of one-stop shopping. It should be clearly stated the idea of having one location for individuals to input information and be screened for various programs is a long-term goal which requires the coordination of multiple state agencies. Most state agencies have different program requirements, different databases and program priorities. In light of the hiring freeze and budget cuts, many agencies are struggling simply to keep up with their individual core mandates.

When USF was created it was intentionally partnered with LIHEAP to share a program database, application, and program administration. Staffs of both these programs have worked diligently with the Department of Health and Senior Services and Office of Information Technology to make changes to USF, LIHEAP and Lifeline so that the PAAD/Lifeline application is now used to screen for USF and LIHEAP eligibility.

Additionally, all of these state agencies as well as the Department of Health, USF Working Group and other interested parties and citizen representatives have been meeting and reviewing the interconnection among the state's various energy assistance programs. Some excellent suggestions were made to improve program efficiencies and are being implemented.

The APPRISE report included a recommendation that was not considered by staff at the time the report came out; linking weatherization with USF. As mentioned earlier, this is now a primary focus and staff's intention is to have this process worked out by the fall of 2009. By reducing energy usage to USF homes, program expenses will also decline. Additional federal dollars will be used for weatherization purposes, as well as ratepayer dollars through the Comfort Partners Program, leading to even more USF homes being weatherized over the next few years than ever before. Also, energy efficiency is an important component of New Jersey's Energy Master Plan.

For specific modifications to Board Staff's 2006 recommendations based on the 2006 APPRISE Evaluation cited above, please refer to the tables below:

2006 Straw Proposal Staff Recommendations Based on 2006 APPRISE Evaluation	Adopted	Amended	Rejected	Under Review
(A) ELIMINATE FRESH START			X	

Discussion Points (Cont'd)

PROGRAM				
Rationale for Board's Determination:	When the Board established the USF program in April 2003, the Board made clear that the structure of the USF program would not be static, rather it would "be an ongoing, evolving program, subject to review and amended as necessary". At this time the Board has no intention of changing the Fresh Start program.			
If under review, please explain:				

2006 Straw Proposal Staff Recommendations Based on 2006 APPRISE Evaluation	Adopted	Amended	Rejected	Under Review
(B) ADOPT FIXED USF CREDIT AMOUNTS		no action required		
Rationale for Board's Determination:	USF credits remain fixed throughout the benefit year and are not adjusted when energy prices fluctuate. An adjustment was made once (around the time of the prior staff recommendation), and has not happened or been suggested since. The normal course of action is to keep the benefit fixed throughout the program year. Therefore no further action is required.			
If under review, please explain:				

2006 Straw Proposal Staff Recommendations Based on 2006 APPRISE Evaluation	Adopted	Amended	Rejected	Under Review
(C) ESTABLISH PERFORMANCE MEASURES				X
Rationale for Board's Determination:				
If under review, please explain:	DCA/OIT began providing regular reports to the Board relating to enrollment, benefits and client demographics approximately one year ago. However, due to recent changes in enrollment procedures, customer service provider, client demographics and other crucial program components, it is difficult to compare one year to the next. When sufficient and comparable data about the program is collected, Board Staff will			

Discussion Points (Cont'd)

	draft performance criteria by which the different components of the program can be monitored. Staff is optimistic that draft USF performance measures will be proposed during the 2009-2010 program year.
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2006 Straw Proposal Staff Recommendations Based on 2006 APPRISE Evaluation	Adopted	Amended	Rejected	Under Review
(D) INITIATE USF AUDITS	X			
Rationale for Board's Determination:	The Board's Division of Audits worked with Department of Treasury to procure an auditing firm under a term contract to conduct a close out audit of Department of Human Services' (DHS) USF administrative expenses for SFY 2004, 2005, 2006 and the first quarter of 2007 (before Department of Community Affairs became the USF program administrator). Widening the scope of that audit, as well as conducting audits of other USF-related agencies and utility companies are being considered by Board Staff.			
If under review, please explain:				

2006 Straw Proposal Staff Recommendations Based on 2006 APPRISE Evaluation	Adopted	Amended	Rejected	Under Review
(E) ESTABLISH ENERGY ASSISTANCE "ONE STOP SHOPPING"	X			
Rationale for Board's Determination:	This past year, the primary focus has been on determining how the various agencies involved in delivering different energy assistance programs can create a more centralized application process. USF has been linked with the federal Low Income Home Energy Assistance Program (LIHEAP) since its inception, in order to maximize the use of federal dollars prior to using ratepayer funding and also for the purpose of administrative efficiency. There are now <u>three</u> entry points to the USF program for qualified households: 1) Submission of a joint USF/LIHEAP application to a county application agency; 2) Participation in the Food Stamps program; and 3) Participation in the			

Discussion Points (Cont'd)

	Lifeline/PAAD programs (new enrollment process began in November 2008). Additionally, Board Staff is currently working with DCA Staff to link clients' receipt of USF and LIHEAP benefits with receiving home weatherization audits through the Board's Comfort Partners Program and the DCA's Weatherization Assistance Program. The goal has been adopted through the establishment of another means of screening for enrollment in USF but it should be clearly understood that "one-stop shopping" is a long-term goal and BPU is one of many partners in that effort.
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20. In authorizing a **system-wide cable television franchise system**, P.L.2006, c.83 established a two-tiered system of franchises under which a company may receive an approval for providing cable television service. A company may either seek the consent from each municipality in which it intends to offer cable television service or it may seek a system-wide cable television franchise covering multiple municipalities. The BPU ultimately approves both applications. On December 15, 2006, the agency granted the first system-wide cable franchise to Verizon New Jersey, which had requested an authorization to provide cable services to 316 municipalities via its fiber optic network.

In response to Discussion Point #51 in the FY 2008-2009 Department of the Treasury Budget Analysis, the BPU stated that every unit of the Office of Cable Television (OCTV) had seen an increase in the work related to the monitoring and enforcement of the system-wide franchise law. The workload has grown mostly because the law stipulates that incumbent cable companies' payments to a municipality rise from two to 3.5 percent of gross revenues when a competitor, in this case Verizon, becomes capable of serving 60 percent of the households in a jurisdiction. Requests for 60 percent certification trigger an intensive technical and legal review and often evoke challenges by incumbent cable television companies. The board stated further that the OCTV's franchising section bore the brunt of municipal discontent with P.L.2006, c.83. As shown on page D-393 in the Governor's FY 2009 Budget, the BPU anticipates an increase in the number cable television cases pending from 86 in FY 2008 to 103 in FY 2009 and 156 in FY 2010.

- **Questions:** 1. Please provide an update on the impact of the system-wide cable television franchise system on the workload of the Office of Cable Television. 2 Have companies other than Verizon filed an application for a system-wide cable television franchise? How many requests for 60 percent certification and challenges thereto have been filed? 3 What is the backlog, if any, in granting 60 percent certifications? 4 What is the cause for municipal discontent with the system-wide cable television franchise law?

Discussion Points (Cont'd)

BPU RESPONSE:

1. Monitoring and enforcing the system-wide franchise provisions continues to increase the workload of the OCTV. This impacts each Bureau and section of the Office. Franchising attends to each new development and has more than 200 requests for free service, return line and equipment intervention assistance. The Bureau of Investigation and Enforcement must clear all 60 percent filings and could conceivably see that number extended to the remaining 227 towns that have yet to reach 60 percent activation. OCTV Bureau of Accounts is called upon to review the increased franchise fee submissions as well as other related economic activity required of all cable operators which now includes Verizon. OCTV customer assistance staff has been greatly impacted by handling and resolving all consumer complaints from Verizon subscribers and setting up a mechanism for quicker resolution of these complaints.

2. Cablevision filed for two system wide franchises...---Fair Lawn and Cedar Grove. The Board must issue orders converting each of the traditional franchises to system wide and set the new term of the franchise. The OCTV is meeting with the AG's Office and the company to determine how to dispose of the provisions in the traditional franchise and what advice to give municipalities with regard to public rights of way issues and management.

3. 141 towns in eight filings have been approved and all within the required 45 day deadline with the exception of two towns where the incumbent operator challenged the 60 percent activation. This has since been approved. There is no backlog because there cannot be according to statute.

4. Municipal discontent focused on delays in producing PEG access channels and programming. With the intervention of the OCTV and proceedings, Interconnection agreements were reached with Verizon and two of the major cable operators Comcast and Time Warner. Discontent still exists with the pace at which Verizon is providing free services as well as training and equipment for PEG productions. There are a growing number of disputes coming before the Board for resolution of these municipal disputes. Discontent still persist in rural portions of the state with the exclusion of municipalities in the FiOS footprint which now stands at 368 towns.