



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY AND ENERGY

IN THE MATTER OF THE PETITION OF ROCKLAND )  
ELECTRIC COMPANY FOR APPROVAL OF ITS )  
ENERGY EFFICIENCY AND PEAK DEMAND )  
REDUCTION PROGRAMS )  
)  
)  
) DOCKET NO. QO23120875

**Parties of Record:**

**Brian O. Lipman, Esq.**, Director, New Jersey Division of Rate Counsel  
**Margaret Comes, Esq.**, Associate Counsel, Rockland Electric Company  
**John Kolesnik, Esq.**, Counsel for the Energy Efficiency Alliance of New Jersey

BY COMMISSIONER ZENON CHRISTODOULOU:

**BACKGROUND AND PROCEDURAL HISTORY**

***The New Jersey Clean Energy Act of 2018***

On May 23, 2018, Governor Murphy signed the Clean Energy Act into law ("CEA"). The CEA mandates that New Jersey's electric and gas public utilities increase their role in delivering energy efficiency ("EE") and peak demand reduction ("PDR") programs. The CEA further directs the New Jersey Board of Public Utilities ("Board") to require the electric and gas utilities to reduce customer use of electricity and natural gas in their respective service territories.

Specifically, the CEA directs the Board to require:

(a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and

(b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas usage in the prior three years within five years of implementation of its gas energy efficiency program.<sup>1</sup>

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<sup>1</sup> N.J.S.A. 48:3-87.9(a).

## ***Triennium 1***

By Order dated June 10, 2020, the Board approved, pursuant to the CEA, utility programs that reduce the use of electricity and natural gas within the utilities' territories.<sup>2</sup> In the June 2020 Order, the Board directed the utilities to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation from July 1, 2021 through June 30, 2024 ("Triennium 1").

By Order dated June 9, 2021, the Board approved a stipulation of settlement authorizing Rockland Electric Company ("RECO" or "Company") to implement its portfolio of EE programs.<sup>3</sup>

## ***Triennium 2***

By Order dated May 24, 2023, the Board directed each electric and gas public utility to propose, for Board approval, EE programs for the second three-year EE program period ("Triennium 2") on or before October 2, 2023, and the Board addressed certain aspects of the Triennium 2 framework.<sup>4</sup> By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.<sup>5</sup>

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<sup>2</sup> In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020 ("June 2020 Order").

<sup>3</sup> In re the Petition of Rockland Electric Company for Approval of Its Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040 and EO20090623, Order dated June 9, 2021.

<sup>4</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated May 24, 2023 ("May 2023 Order").

<sup>5</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated July 26, 2023.

By Order dated September 27, 2023, the Board extended the filing deadline for Triennium 2 petitions from October 2, 2023 to December 1, 2023, and directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by December 8, 2023 and that entities file with the Board any responses to those motions by December 14, 2023.<sup>6</sup> By the September 2023 Order, the Board retained this matter for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself, Commissioner Christodoulou, as Presiding Commissioner in this matter, authorized to rule on all motions that arise during the pendency of this proceeding, and modify schedules that may be set as necessary to secure a just and expeditious determination of all issues. By Order dated October 25, 2023, the Board delayed the start of Triennium 2 by six (6) months from July 1, 2024 until January 1, 2025.<sup>7</sup>

### **DECEMBER 2023 PETITION**

On December 1, 2023, RECO filed the requisite petition with the Board (“Petition”). In the Petition, the Company proposed to invest approximately \$60.9 million in its EE programs over a 30-month period from January 1, 2025 through June 30, 2027. The proposed programs and associated costs are summarized in the table below:

<b>Category</b>	<b>Sector</b>	<b>Program</b>	<b>Total</b>
Core	Residential	Whole Home	\$4,888,005
		Income Qualified	\$6,889,786
		EE Products	\$9,247,002
		Behavioral	\$600,000
	Commercial	Energy Solutions	\$1,025,000
		Prescriptive and Custom	\$13,080,911
		Direct Install	\$11,116,673
Multifamily	Multifamily	\$1,061,043	
Utility-Led		Building Decarbonization	\$4,513,100
		Peak Demand Reduction	\$1,101,600
		Next Generation Savings	\$1,400,000
Net Utility Transfers			\$5,977,272
<b>Total</b>			<b>\$60,900,392</b>

<sup>6</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated September 27, 2023 (“September 2023 Order”).

<sup>7</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated October 25, 2023 (“October 2023 Order”). The October 2023 Order also extended Triennium 1 through December 31, 2024.

In addition to approval of the plan to implement the Triennium 2 EE and PDR programs, the Company proposed to establish a “Clean Energy Act II Program” component of its existing Regional Greenhouse Gas Initiatives (“RGGI”) Surcharge. The current Clean Energy Act Program component of the RGGI Surcharge, related to Triennium 1, would be renamed to Clean Energy Act I. The Clean Energy Act II Program component of the RGGI Surcharge would be a non-bypassable charge set annually based on the sum of: 1) the Company’s forecasted revenue requirement and any incremental operations and maintenance expenses associated with the EE and PDR programs; and 2) any prior period over- or under-recoveries, including interest. The quantity would then be divided by the forecast of the Company’s kilowatt-hour (“kWh”) deliveries to all customers served under the Company’s electric tariff for the annual recovery period. Any over- or under-collections of revenue would be compared to the sum of the month’s revenue requirement and any incremental operations and maintenance expenses. The difference would be deferred as a regulatory asset or regulatory liability.

RECO estimated that the Triennium 2 programs component of the RGGI Surcharge’s bill impact on a typical residential customer using 925 kWh per month would be an increase of \$1.66, or 0.70%, for the initial year of the EE program.

On December 28, 2023, Board Staff (“Staff”) issued RECO a letter of administrative deficiency (“Letter”) identifying administratively incomplete portions of the Petition and requesting that the Company cure any deficiencies.

By Order dated January 10, 2024, the Board directed that any entity wishing to file a motion for leave to intervene or participate or to update a previously-filed motion for leave to intervene or participate in this proceeding shall have until seven (7) days following Staff’s issuance of a letter of administrative completeness to the Company.<sup>8</sup>

On January 16, 2024, RECO filed an update to the Petition to cure the deficiencies identified in the Letter (“Update”). On January 19, 2024, Staff issued a letter of administrative completeness, noting that the Update adequately cured the deficiencies identified in the Letter and that Staff therefore determined the Petition to be administratively complete.

N.J.S.A. 48:3-98.1(b) provides the Board with 180 days to approve, modify, or deny the Company’s requested recovery of costs for the Program. As such, the 180-day review period for this matter commenced on January 16, 2024.

The Board subsequently received no additional or updated motions seeking leave to intervene or participate.

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<sup>8</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs et al., BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024 (“January 2024 Order”). By the January 2024 Order, the Board additionally redesignated President Guhl-Sadovy as the presiding commissioner for the Public Service Electric and Gas Company (“PSE&G”) filing, BPU Docket No. QO23120874, and Commissioner Abdou as the presiding commissioner for the Elizabethtown Gas Company (“ETG”), New Jersey Natural Gas Company (“NJNG”), and South Jersey Gas Company (“SJG”) filings, BPU Docket Nos. QO23120869, QO23120868, and QO23120870.

By Order dated February 26, 2024, after considering all Motions to Intervene or Participate in this matter and responses to the Motions, I granted intervenor status to the Energy Efficiency Alliance of New Jersey (“EEA-NJ”) and participant status to Enerwise Global Technologies, Inc. d/b/a CPower; and the joint utilities: Atlantic City Electric Company, ETG, Jersey Central Power & Light Company, NJNG, PSE&G, and SJG.<sup>9</sup>

Based upon the status of current settlement discussions, the parties to this matter have agreed that an extension of the 180-day review period is appropriate. Accordingly, on March 20, 2024, the parties to this matter submitted a stipulation of settlement agreeing to extend the 180-day review period to October 15, 2024 (“Stipulation”).

N.J.S.A. 48:2-21.3 allows any public utility to file with the Board a written stipulation waiving the effective date of any tariff or rate, subject to the Board’s approval. In this case, the parties to this proceeding have agreed to an extension until October 15, 2024. No party has opposed the Stipulation or the extension of the review period. As such, after review of the Stipulation, I **HEREBY FIND** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, I **HEREBY APPROVE** the attached Stipulation in its entirety, **HEREBY INCORPORATE** its terms and conditions as though fully set forth herein and **HEREBY EXTEND** the review period until October 15, 2024.

I have reviewed the proposed procedural schedule, which has been agreed to by the parties in this matter. I **HEREBY ISSUE** the following Prehearing Order, along with the procedural schedule, attached as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

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<sup>9</sup> In re the Petition of Rockland Electric Company for Approval of its Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23120875, Order dated February 26, 2024.

## **PREHEARING ORDER**

### **1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED**

#### **A. Nature of Proceedings**

On December 1, 2023, RECO filed the Petition with the Board proposing to invest approximately \$60.9 million in its EE programs over a 30-month period from January 1, 2025 through June 30, 2027.

In addition to approval of the plan to implement the EE and peak demand reduction PDR programs, the Company proposed to establish a “Clean Energy Act II Program” component of its existing RGGI Surcharge. The current Clean Energy Act Program component of the RGGI Surcharge, related to Triennium 1, would be renamed “Clean Energy Act I.” The Clean Energy Act II Program component of the RGGI Surcharge would be a non-bypassable charge set annually based on the sum of: 1) the Company’s forecasted revenue requirement and any incremental operations and maintenance expenses associated with the EE and PDR programs; and 2) any prior period over- or under-recoveries, including interest. The quantity would then be divided by the forecast of the Company’s kilowatt-hour deliveries to all customers served under the Company’s electric tariff for the annual recovery period. Any over- or under-collections of revenue would be compared to the sum of the month’s revenue requirement and any incremental operations and maintenance expenses. The difference would be deferred as a regulatory asset or regulatory liability.

RECO estimated that the Triennium 2 programs component of the RGGI Surcharge’s bill impact on a typical residential customer using 925 kWh per month would be an increase of \$1.66, or 0.70%, for the initial year of the EE program.

#### **B. Issues to be Resolved**

1. The cost effectiveness and cost efficiency of the proposed programs, including but not limited to:
  - a. Whether the utility pursued additional state and federal funding for its EE and building decarbonization programs to defray burdens on ratepayers; and
  - b. Whether the total budget dollar amount in the building decarbonization programs proposed by all utilities combined exceeds the Board’s recommended total budget;
2. The compliance of the proposed program offerings with the Board’s requirements, including but not limited to:
  - a. Whether the utility’s filing proposes similar EE programs that can be consistently implemented across all utility territories; and
  - b. Whether the utility’s proposed building decarbonization programs are in compliance with the Board’s guidelines; and
3. The reasonableness and lawfulness of the proposed cost recovery mechanism, including but not limited to:
  - a. Whether the utility’s proposed program properly accounts for jointly planned and coordinated budgets with other partner utilities.

## **2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES**

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

**3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING**

As authorized by N.J.S.A. 10:4-9.3, public hearings will be held virtually after publication of notice in newspapers of general circulation in RECO's service territory. The dates, times, and locations of the public hearings are to be determined.

**4. SCHEDULE OF HEARING DATES, TIME, AND PLACE**

Evidentiary hearings are tentatively scheduled for August 15 and 16, 2024 at a time and location to be determined based upon the availability of the parties and myself.

**5. STIPULATIONS**

As of the date of this Order, the Company, Staff, and the New Jersey Division of Rate Counsel ("Rate Counsel") have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

The parties to this matter have also agreed that extension of the 180-day review period is appropriate and have entered into a stipulation to extend the review period to October 15, 2024 to allow more time for review of RECO's Petition by the Board.

**6. SETTLEMENT**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

**7. AMENDMENTS TO PLEADINGS**

On January 16, 2024, RECO filed a supplement to its Petition to cure certain administrative deficiencies.

**8. DISCOVERY AND DATE FOR COMPLETION**

The time limits for discovery shall be as provided in Exhibit A or in accordance with N.J.A.C. 1:1-10.4.

**9. ORDER OF PROOFS**

RECO has the burden of proof. The hearings will be conducted by topic in the following order:

First – RECO

Second – Rate Counsel

Third – EEA-NJ

Fourth – Staff

**10. EXHIBITS MARKED FOR IDENTIFICATION**

None at this time.

**11. EXHIBITS MARKED IN EVIDENCE**

None at this time.

**12. ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES**

RECO will present the following witnesses: Charmaine Cigiliano and Zachary Froio

Rate Counsel will present the following witnesses: Robert J. Henkes, Henkes Consulting; David Dismukes, Acadian Consulting Group; Elizabeth A. Stanton, Applied Economics Clinic; Ralph Smith, Larken & Associates PPLC.

Rate Counsel or other parties may identify additional witnesses as necessary for purposes of testimony.

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

**13. MOTIONS**

All pending motions to intervene and/or participate have been addressed.

**14. SPECIAL MATTERS**

None at this time.

The parties are **HEREBY DIRECTED** to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED:

4/12/24

BY:



DR. ZENON CHRISTODOULOU

IN THE MATTER OF THE PETITION OF ROCKLAND ELECTRIC COMPANY FOR APPROVAL OF ITS ENERGY  
EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS

DOCKET NO. QO23120875

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EXHIBIT A: PROCEDURAL SCHEDULE  
DOCKET NO. QO23120875

Motions to Intervene/Participate	January 26, 2024
Responses to Intervention/Participation	February 1, 2024
Discovery Requests on Initial Testimony+	February 9, 2024
Responses to Discovery on Initial Testimony	February 23, 2024
Additional Discovery Requests	March 13, 2024
Additional Round Discovery Answers	March 27, 2024
Settlement Conference	April 12, 2024
Public Hearings++	TBD in April–May
Intervenor/Respondent Testimony	May 13, 2024
Discovery on Intervenor/Respondent Testimony	May 29, 2024
Responses to Discovery on Intervenor/Respondent Testimony	June 12, 2024
Rebuttal Testimony	June 26, 2024
Discovery on Rebuttal Testimony	July 1, 2024
Answers to Rebuttal Discovery	July 15, 2024
Settlement Conference (if necessary)	July 18, 2024
Evidentiary Hearings with oral surrebuttal+++	August 15–16, 2024
Initial Briefs	August 30, 2024
Reply Briefs	September 16, 2024
Final Board Action	TBD

+ Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 1:1-10.4. The aforementioned dates are subject to modification by the Presiding Commissioner. The parties on the service list will be notified accordingly.

++ Subject to the Presiding Commissioner's availability.

+++ The Parties may request oral rejoinder. The Presiding Commissioner will confirm this request prior to evidentiary hearings.