

EVI Stakeholders

In the notice to the September 15, 2017 EVI Stakeholder Work Group Kick-off meeting BPU staff asked for your comments and input on several topics. One was:

Do EVs fall under the definitions of demand side management and energy efficiency as set forth at N.J.S.A. 48:3-51 and N.J.S.A 48:98.1.d.

For you information below is the language from the statutes for both N.J.S.A. 48:3-51 and N.J.S.A 48:98.1.d. and the sections in the statutes related to their use.

N.J.S.A. 48:3-51 Definition EDECA

"Demand side management" means the management of customer demand for energy service through the implementation of cost-effective energy efficiency technologies, including, but not limited to, installed conservation, load management, and energy efficiency measures on and in the residential, commercial, industrial, institutional, and governmental premises and facilities in this State.

N.J.A.S. 48:3-60. Societal benefits charge by public utility; Universal Service Fund

a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of this act, the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) The costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of this act, the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in this act shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program

shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) Nuclear plant decommissioning costs;

(3) The costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of this act, the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of this act. Within four months of the effective date of this act, and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of this act; provided that the funding for such programs be no less than 50% of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of this act, and provided that 25% of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in public electric and gas utility rates for demand side management programs on the effective date of this act, except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches \$ 140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such

programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of **demand side management** programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding;

(4) Manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) The cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of this act and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of this act, shall be sufficient to fund the consumer education program established pursuant to section 36 of this act.

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c. 197 ([C. 48:2-29.15](#) et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to

P.L.1981, c. 210 ([C. 48:2-29.31](#) et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to [42 U.S.C. § 8621](#) et seq., and funds collected by electric and natural gas utilities, as authorized by the board, to off-set uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs. N.J.S.A. 48:3-60

History:

L. [1999, c. 23](#), § 12, eff. Feb. 9, 1999.

N.J.S.A. 48:3-98.1. Electric, gas public utilities energy efficiency and conservation programs, investments, cost recovery

a. Notwithstanding the provisions of any other law or rule or regulation to the contrary:

(1) an electric public utility or a gas public utility may provide and invest in **energy efficiency and conservation** programs in its respective service territory on a regulated basis pursuant to this section, regardless of whether the **energy efficiency or conservation program** involves facilities on the utility side or customer side of the point of interconnection;

(2) an electric public utility or a gas public utility may invest in Class I renewable energy resources, or offer Class I renewable energy programs on a regulated basis pursuant to this section, regardless of whether the renewable energy resource is located on the utility side or customer side of the point of interconnection; and

(3) the board may provide funding for **energy efficiency**, conservation, and renewable energy improvements through the societal benefits charge established pursuant to section 12 of [P.L.1999, c.23 \(C.48:3-60\)](#), the retail margin on certain hourly-priced and larger non-residential customers pursuant to the board's continuing regulation of basic generation service pursuant to sections 3 and 9 of [P.L.1999, c.23 \(C.48:3-51](#) and [48:3-57](#)), or other monies appropriated for such purposes. The board may also direct electric public utilities and gas public utilities to undertake **energy efficiency**, conservation, and renewable energy improvements, and shall allow the recovery of program costs and incentive rate

treatment pursuant to subsection b. of this section.

b. An electric public utility or a gas public utility seeking cost recovery for any program pursuant to this section shall file a petition with the board to request cost recovery. In determining the recovery by electric public utilities and gas public utilities of program costs for any program implemented pursuant to this section, the board may take into account the potential for job creation from such programs, the effect on competition for such programs, existing market barriers, environmental benefits, and the availability of such programs in the marketplace. Unless the board issues a written order within 180 days after the filing of the petition approving, modifying or denying the requested recovery, the recovery requested by the utility shall be granted effective on the 181st day after the filing without further order by the board. Ratemaking treatment may include placing appropriate technology and program cost investments in the respective utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the board, including, but not limited to, the societal benefits charge established pursuant to section 12 of [P.L.1999, c.23 \(C.48:3-60\)](#). All electric public utility and gas public utility investment in **energy efficiency and conservation programs** or Class I renewable energy programs may be eligible for rate treatment approved by the board, including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas.

c. Within 120 days after the date of enactment of [P.L.2007, c.340 \(C.26:2C-45 et al.\)](#), the board shall issue an order that allows electric public utilities and gas public utilities to offer **energy efficiency and conservation programs**, to invest in Class I renewable energy resources, and to offer Class I renewable energy programs in their respective service territories on a regulated basis. The board's order shall be reflected in rules and regulations thereafter to be adopted by the board pursuant to the "Administrative Procedure Act," P.L.1968, c.410 ([C.52:14B-1 et seq.](#)).

d. As used in this section:

"Class I renewable energy program" means any regulated program approved by the board pursuant to this section for the purpose of facilitating the development of Class I renewable energy in the State.

"Energy efficiency and conservation program" means any regulated program, including customer and community education and outreach, approved by the board pursuant to this section for the purpose of conserving energy or making the use of electricity or natural gas more efficient by New Jersey consumers, whether residential, commercial, industrial, or governmental agencies.

"Program costs" means all reasonable and prudent costs incurred in developing and implementing energy efficiency, conservation, or Class I renewable energy programs approved by the board pursuant to this section. These costs shall include a full return on invested capital and foregone electric and gas distribution fixed cost contributions associated with the implementation of the energy efficiency, conservation, or Class I renewable energy programs until those cost contributions are reflected in base rates following a base rate case if such costs were reasonably and prudently incurred.

History:

L. [2007, c. 340](#), § 13, eff. Jan. 13, 2008.

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