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**Date:** 12/5/2013 9:52 AM  
**Subject:** BPU Order on Utility Infrastructure Hardening  
**Attachments:** Sandy Infrastructure Hardening Order.PDF

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Agenda Date: 3/20/13  
Agenda Item: 2J

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
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Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

IN THE MATTER OF THE BOARD'S ESTABLISHING A ) Establishment of a  
GENERIC PROCEEDING TO REVIEW THE ) Generic Proceeding  
PRUDENCY OF COSTS INCURRED BY NJ UTILITY )  
COMPANIES IN RESPONSE TO MAJOR STORM ) Docket No. AX13030196  
EVENTS IN 2011 AND 2012 )

**Parties of Record:**

- Ralph LaRossa, Public Service Electric and Gas Co.
- Donald Lynch, Jersey Central Power & Light Co.
- Vince Maione, Atlantic City Electric Co.
- John McAvoy, Rockland Electric Co.
- Tracey Thayer, Esq., New Jersey Natural Gas
- Stefanie Brand, Esq., Director, Division of Rate Counsel

**BY THE BOARD:**

The Board of Public Utilities ("Board") is empowered to ensure that regulated public utilities provide safe, adequate and proper service to the citizens of New Jersey. N.J.S.A. 48:2-23. Pursuant to N.J.S.A. 48:2-13, the Board has been vested by the Legislature with the general supervision and regulation of and jurisdiction and control over all public utilities, "so far as may be necessary for the purpose of carrying out the provisions of [Title 48]." The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. See, e.g. In re Public Service Electric and Gas Company, 35 N.J. 358, 371 (1961); Township of Deptford v. Woodbury Terrace Sewerage Corp. 54 N.J. 418, 424 (1969); Bergen County v. Dep't of Public Utilities, 117 N.J. Super. 304 (App. Div. 1971). The Board is also vested with the authority, pursuant to N.J.S.A. 48:2-19, to investigate any public utility, and, pursuant to N.J.S.A. 48:2-16 and 48:2-40, to issue orders to public utilities, and to determine whether the rates charged by public utilities are just and reasonable. N.J.S.A. 48:2-21.

In 2011 and 2012 New Jersey was struck by several extraordinary Major Storm Events which left millions of New Jersey residents without necessary utility service and caused unprecedented damage to the state's utility infrastructure.

**MAJOR STORM EVENTS**

Hurricane Irene made landfall at Little Egg Inlet as a Category 1 hurricane on Sunday morning

of August 28, 2011. While still out to sea, the storm's outer bands produced heavy rains and wind that battered New Jersey's coastal communities. In addition to the damaging high winds, widespread record setting flooding inundated large portions of the state's utility infrastructure and caused severe damage to both coastal and interior communities. Statewide approximately 1.9 million customers were affected by outages due to this storm. Power was not fully restored until September 5, 2011.

On October 29, 2011 Northern New Jersey was struck with an unseasonal and powerful snowstorm that blanketed the region with record-breaking snowfall. The combination of heavy wet snow and trees mostly full of foliage caused extensive infrastructure damage from fallen trees and limbs. The storm caused loss of electrical service to nearly 1 million of the state's 3.9 million electric customers for up to nine days. Electric service was not fully restored until November 7, 2011.

On June 30 2012, a derecho wind storm left more than 206,000 New Jersey residents without power and caused severe damages large portions of the energy infrastructure in southern New Jersey. The Federal Emergency Management Agency ("FEMA") attributed 34 deaths across the Midwest and Mid-Atlantic regions to the derecho wind storm. Atlantic City Electric ("ACE") deployed over 1,500 personnel in the ensuing restoration effort.

On October 29, 2013, Superstorm Sandy made landfall near Atlantic City New Jersey. Sandy's 90-MPH winds and unprecedented storm surge caused extraordinary and catastrophic damage to dozens of communities across the states. Literally millions of the state's residents were left without, power, water, and natural gas service for extended periods of time following the storm.

Just ten days after Superstorm Sandy, on November 7, 2012, a powerful nor'easter brought significant early season snow fall, damaging winds and tidal-surge to New Jersey. Heavy snowfall caused even further damage to New Jersey's storm-ravaged infrastructure, leaving an additional 167,000 people without power.

As a result of these storms, millions of New Jersey residents were left without electric power, gas service, water and sewer service, often for extended periods of time. Entire communities were disrupted, and their emergency management capabilities were overextended. Schools and businesses were closed and critical facilities activated emergency contingency plans. Due to the widespread and extended outages and the extraordinary efforts required to restore service, the Board considers these storms to qualify as Major Storm Events. As used in this Order, Major Storm Event means sustained impact on or interruption of utility service:

1. resulting from conditions beyond the control of the utility, which may include, but are not limited to, thunderstorms, tornadoes, hurricanes, heat waves, snow and ice storms;
2. which affects at least 10 percent of the customers in an operating area; and
3. due to a utility's documentable need to allocate field resources to restore service to affected areas when one operating area experiences a Major Storm Event, the Major Storm Event shall be deemed to extend to those other operating areas of that utility which are providing assistance to the affected areas.

The Board retains authority to reexamine the characterization of a Major Storm Event.

On January 23, 2013, the Board issued an Order<sup>1</sup> addressing five categories of potential improvements to be undertaken by New Jersey's electric distribution companies ("EDCs") in response to Major Storm Events. These categories include: 1) Preparedness Efforts; 2) Communications; 3) Restoration and Response; 4) Post Event; and 5) Underlying Infrastructure Issues. This Order focuses on the cost expended by all New Jersey Utilities on their Preparedness Efforts, Communications and Restoration and Response to the 2011 and 2012 Major Storm Events.

In the January 23 Order, the Board required the EDCs to take specific actions to improve their preparedness in response to extreme weather events. While restoring utility service to New Jersey's residents is a paramount concern during major storm events, in order to properly discharge its statutory responsibilities and mandate to provide safe, reliable, and affordable utility service, the Board must investigate the prudence of incurred restoration costs.

Accordingly, the Board **FINDS** that it is critical to investigate the prudence, cost efficiency, and effectiveness of the restoration activities undertaken by the State's utility companies. While the Board ordered the Electric Distribution Companies ("EDCs") to evaluate various storm-related metrics, to properly discharge its statutory responsibilities, and based on the recommendation of Board Staff, as well as comments presented at the public hearings held at various locations across the State, the Board **HEREBY FINDS** that it is reasonable to initiate a generic proceeding to investigate the prudence of costs incurred by all New Jersey utilities for utility service restoration efforts associated with these Major Storm Events in 2011 and 2012.

#### **ESTABLISHMENT OF A GENERIC PROCEEDING TO EVALUATE PRUDENCE OF MAJOR STORM EVENT RESTORATION COSTS**

The Board **HEREBY FINDS** that it is appropriate to Order utilities subject to Board jurisdiction to submit detailed expense reports clearly identifying all preparation, recovery and restoration costs incurred during these storms including but not limited to utilization of Mutual Aid crews, extraordinary employee deployment costs, facility repair and upgrades and operational steps taken to mitigate damage incurred as a result of a Major Storm Event.

Therefore, the Board **HEREBY ORDERS** Staff to open a generic proceeding to evaluate and review the prudence of all submissions for Major Storm Event expense reimbursement from ratepayers, filed or to be filed by each utility each under its own separate sub-docket numbered proceeding. Where a utility has already filed a proceeding for recovery or deferral of expenses related to a 2011-2012 Major Storm Event, to the extent that the amount of the allowed recovery has not yet been determined, the Board **HEREBY DIRECTS** that review of the prudence of those costs shall be conducted within this generic proceeding.

Additionally, the Board **HEREBY ORDERS** Staff to investigate whether to retain, and the appropriate mechanism to retain, an independent expert to aid the Board in developing standards for examining the prudence of costs incurred by the New Jersey utilities prior to, during and following any Major Storm Event to prevent the loss of, prepare customers for the potential loss of, and restore, utility service.

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<sup>1</sup> In the Matter of the Board's Review of the Utilities Response to Hurricane Irene, Order Accepting Consultant's Report and Additional Staff Recommendations and Requiring Electric Utilities to Implement Recommendations. BPU Docket No. EO11090543, January 23, 2013 (hereinafter "January 23 Order").

The Board recognizes that maintaining safe, reliable and affordable utility service is the mandate of all New Jersey utilities. Accordingly, the Board HEREBY ORDERS Staff to require that any entity retained by the Board to assist in the evaluation of preparation, recovery and restoration efforts associated with Major Storm Events identify those preparation, recovery and restoration costs that were not included in the utility's Board-approved annual operating expenses standard. The Board continues to recognize that rate impacts to the State's utility ratepayers associated with its decisions must be viewed in concert with the associated benefit of expenditures incurred when preparing for, responding to and restoring the damage caused by any Major Storm Event.

Accordingly, the Board HEREBY ORDERS that, as a condition for approval of the right to recover unreimbursed extraordinary Major Storm Event costs from ratepayers in a currently pending or future base rate filing, all utilities seeking such recovery shall file a detailed report by July 1, 2013 or sooner, including but not limited to, identification of all extraordinary preparation, recovery and restoration costs incurred as a result of the Major Storm Events, such as utilization of Mutual Aid crews, extraordinary employee deployment costs, facility repair and upgrades, and operational steps taken to mitigate damage. The filing shall include the following information:

- 1) The total of actually incurred unreimbursed, uninsured, incremental storm restoration costs;
- 2) For each cost identified, information as to the eligibility for, and probability of cost recovery from insurance, any governmental program or any other third party;
- 3) The costs and ratemaking treatment for those costs for which the company seeks to recover now or in a deferred base rate proceeding;
- 4) The tax treatment expected for each storm-related cost; and
- 5) A description of how the company intends to report storm related costs for GAAP purposes.

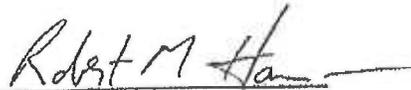
The Board further DIRECTS Staff to evaluate any supplemental information as to costs incurred by all utilities filing under this generic proceeding in accordance with the terms developed as part of this proceeding. The Board may, in its discretion, approve of costs associated with preparation, recovery and restoration efforts that it finds reasonable and prudent at any point during the course of this proceeding.

To the extent any information that is required to be submitted pursuant to this Order is claimed to be confidential, proprietary or raises a security concern, it should be submitted pursuant to the Board's regulations at N.J.A.C. 14:1-12.1 -12.18.

The Effective Date of this Order is April 1, 2013.

DATED: 3/20/13

BOARD OF PUBLIC UTILITIES  
BY:



ROBERT M. HANNA  
PRESIDENT



JEANNE M. FOX  
COMMISSIONER

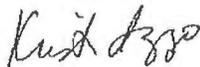


JOSEPH L. FIORDALISO  
COMMISSIONER



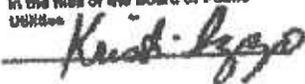
MARY ANNA HOLDEN  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

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



IN THE MATTER OF THE BOARD'S ESTABLISHING A GENERIC PROCEEDING TO  
REVIEW THE PRUDENCY OF COSTS INCURRED BY NJ UTILITY COMPANIES IN  
RESPONSE TO MAJOR STORM EVENTS IN 2011 AND 2012

DOCKET NO. AX13030196

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