NEW JERSEY UTILITY SHAREHOLDERS ASSOCIATION

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February 11, 2020

Ms. Aida Camacho-Welch
Secretary of the Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, New Jersey 08625-0350

Re: Comments Regarding the Application of Utility Targets

Dear Secretary Camacho-Welch:

I am writing on behalf of the members of the New Jersey Utility Shareholders Association (NJUSA). NJUSA is a not-for-profit association of New Jersey residents who are investors in one or more of the publicly traded entities that have a subsidiary providing essential utility service in New Jersey. Our members choose to join NJUSA to learn more about and advocate with other interested New Jersey utility investors on issues that can affect the value of their investments. NJUSA membership is extended only to individual investors residing in the State; institutional investors are not eligible to be NJUSA members.

NJUSA members, like all New Jersey residents, desire a quality of life characterized by a clean environment and a strong economy. Like other New Jerseyans, NJUSA members also need safe and reliable essential utility services at reasonable rates. However, unlike many other New Jerseyans, NJUSA members have a unique perspective on many of the policy decisions made by the Board of Public Utilities (the Board) because of the potential impact on the value of shares they own in New Jersey's regulated utilities.

Some might ask, why does the value of utility shares matter? Utility shareholder investments (equities) infuse capital that, along with debt obtained via the capital markets, constitutes the financial undergirding utilities need to meet their service obligations. As utility shareholders, NJUSA members help make possible the delivery of utility services on which all New Jersey residents and businesses depend.

NJUSA members appreciate the Board's willingness to allow contemporaneous cost recovery for accelerated investment in utility infrastructure at the utility's allowed rate of return. In separate comments on cost recovery, we've encouraged the same for energy efficiency investments, recognizing that, for shareholders, programs that require utilities to sell less carries considerable new investment uncertainties and risks.

Infrastructure investments clearly were and are essential to ensuring the continued provision of safe and reliable utility service well into the future. The below excerpts from the Clean Energy Act of 2018 (CEA) make it clear that the State Legislature understood that the requirement for electric and gas utilities to conduct energy efficiency programs would necessitate an implementation structure that attracts investment capital.

With respect to electric utilities, the CEA states:

> "The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-

income communities that shall require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9)."

The CEA reiterates that language for gas utilities:

> "The board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy efficiency program in order to ensure investment in cost-effective energy efficiency measures, ensure universal access to energy efficiency measures, and serve the needs of low-income communities that shall require each gas public utility to implement energy efficiency measures that reduce natural gas usage in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9)."

Unfortunately, it does not appear that the proposal in its current form recognizes the role of utility shareholders and how important they will be to ensuring capital is available for all future mandated purposes. If electric and gas utilities are to conduct energy efficiency programs that succeed in achieving the CEA goals, the rules under which they participate must be structured to attract investment to meet both the new energy efficiency mandate and the continued obligation to provide safe and reliable service.

New Jersey utility shareholders are accustomed to a regulatory structure that recognizes the need for management and systems efficiencies that result in reduced operating expenses. They are accustomed to utilities striving to achieve infrastructure upgrades on or ahead of schedule. They are accustomed to utilities achieving growth in sales and revenues. However, they are unaccustomed to a system intended to reward utilities for selling less energy and penalizing them if they do not. If utility shareholders are to continue to provide the financial support needed for both their traditional service obligations and the CEA's new energy efficiency mandates, shareholders will need to be comfortable that the energy efficiency mandate will not diminish the value of utility investments.

It is important to remember that the regulatory system in place today was premised on utilities providing obligatory service, being reimbursed for the cost of that service from customers with shareholders enticed to provide the financial wherewithal for service to be provided through the opportunity to earn a return on their investments. Change that longstanding formula to require utilities to discourage customers' use of the obligatory service and the fundamentals of the formula are turned upside down.

As we noted in our comments on the Cost Recovery proposal, energy efficiency programs with mandatory targets subject to penalties present a risk unlike any other under which electric and gas utilities have had to perform or that their shareholders have had to evaluate as to the attractiveness (or not) of the utilities as an investment option. In fact, from the perspective of existing and potential shareholders, these types of investments are likely be viewed to be riskier than traditional investments because of the unpredictability of customer behavior affecting energy efficiency market penetration and program success.

The mere existence of penalties within a not-well-understood new regulatory construct can adversely affect the position of utilities as the relatively stable investments they have historically held. The possibility of creating the unintended consequence of sending a negative signal to shareholders and the capital markets cannot be overstated. The threat of proposed penalties for not meeting energy efficiency performance targets, if not developed with deliberate consideration to the impact on shareholders and the credit ratings that inform the capital markets, can result in the unintended consequence of compromising the overall financial integrity of the utilities.

NJUSA is concerned as well with the Proposal's preliminary targets which are beyond the statutory mandate for the program in years 4 and 5. As a participant in the BPU stakeholder meetings on the Energy Efficiency Transition over the past few months, it is clear that most stakeholders believe it will be challenging for the electric and gas utilities to reach the targets of the law much less those that are more aggressive given the reported publicly available data on energy efficiency program performance in New Jersey. Transitions such as what is to be achieved for energy efficiency are prone to uncertainty under the best of circumstances. Current circumstances present even greater uncertainty given the serious stakeholder critiques of the Market Potential Study. For these reasons we urge the Board to refrain from setting targets beyond what the CEA requires until such time as the basis for more aggressive targets is demonstrated as being achievable in the context of the realities of the New Jersey markets.

If unrealistic targets advance, they not only will diminish the chances of utility program success but also will risk discouraging shareholder investment. We strongly urge the Board to recognize that continued and perhaps even increased investment by utility shareholders will be critically important to the ability of electric and gas utilities to meet both their historical and new energy efficiency mandates. Energy efficiency program elements that increase uncertainty as to the financial soundness of utility investments will be counterproductive to both.

Thank you for the opportunity to share our views.

Sincerely,

Karen D. Alexander

Karen D. Alexander
President