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**IN THE MATTER OF THE IMPLEMENTATION OF P.L. 2018, C. 17, THE  
NEW JERSEY CLEAN ENERGY ACT OF 2018, REGARDING THE  
SECOND TRIENNium OF THE ENERGY EFFICIENCY AND PEAK  
DEMAND REDUCTION PROGRAMS**

**DOCKET NO. QO23030150**

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These comments are made on behalf of the New Jersey Business & Industry Association (NJ BIA). NJ BIA is the state's largest business association whose members include the largest Fortune 100 companies, manufacturers, utilities, and Main Street businesses. Our members are the producers and consumers of energy. We have a keen interest in ensuring that BPU and state policies related to energy production and consumption work to achieve a fair, competitive, and prosperous business environment.

We have several general concerns with the straw proposal, especially the goal of building electrification as the sole means of reducing carbon emissions from the building sector. Our concerns focus on legal authority, process, cost, efficacy, and reliability. We are also concerned that the proposal seems to be improperly merging the goals of building electrification with that of energy efficiency and using the authority for the latter to justify the former. Building electrification and energy efficiency programs, while they may overlap, are not the same and do not necessarily share the same goals, authority, or intended outcomes. We also have several more technical concerns with the straw proposal which we will also address below.

From a legal perspective, we are unaware of any statutory authority for the BPU to use its regulatory and rate authority to compel public utilities to initiate programs to enforce building electrification. Executive orders can only direct agencies to do what is already in their statutorily delegated power to do. They do not create authority. The Global Warming Response Act also did not give additional authority to compel action, only to use existing authority in a certain way. The Energy Master Plan is similarly only a planning document, not one that can create authority.

The only authority we are aware of that speaks to building mandates comes from the Uniform Construction Code, which is a specific line of action given to the Department of Community Affairs. That Act allows for certain building requirements to be mandated, but only after an established building code is established and a requirement that it is adopted after a public process.

Thus, while the BPU may wish to use its authority that it otherwise has to control rates or act under the Clean Energy Act to compel energy efficiency, it lacks the ability to compel public utilities to design rate structures and incentive programs to implement an electrification program.

Various bills have been introduced in the Legislature to give the BPU the exact authority it is now seeking to exercise. None of those bills have become law. Without such legislatively enacted statutory authority, the BPU lacks the jurisdiction to do what it is seeking to do under these straw proposals as it relates to building electrification.

We are also disappointed in the process that has evolved. NJBIA has been involved in various stakeholder meetings that have been funded by the BPU to discuss building electrification. Several of these meetings concerned stretch codes and possibly changing building codes. There was talk of the need for legislation for some of these efforts. Recently, we were told of a new round of stakeholder meetings, but they were cancelled. Now we are faced, not with stakeholder meetings to come up with a solution to the issue of building decarbonization, but a straw proposal whereby the BPU is assuming authority to act on its own.

This process failed to take advantage of stakeholder input, failed to be inclusive, and now seems to have abandoned collaboration in favor of a consultant-led, BPU exercise of unauthorized power. Rather than attempting to shoehorn mandates through energy efficiency programs, the BPU should work more with the business community and others to develop ways to reduce carbon emissions from the building sector.

The straw proposals also fail to adequately address the issue of cost. While we favor cost effective energy efficiency programs and support their implementation, the straw proposals do not account for the cumulative costs of all the various decarbonization efforts being placed on the backs of ratepayers, nor is there an overall plan or analysis of what the Administration's decarbonization policies will cost the state. The BPU cannot ignore cost issues. Whether it be taxpayer or ratepayer monies, it is essentially the same people and businesses who are paying these costs.

In the face of a warming climate and continued fluctuations in weather variability, the first thing that should be done is to ensure that we adapt to these changes. Having a secure supply of affordable energy is one of the surest means to adapt to a changing climate. Ensuring that residents can afford to heat or cool their homes and businesses, and that businesses can afford to continue to do business in this state is the first order of priorities. A strong economy is the best adaptation measure we can pursue.

We continue to be alarmed at the BPU for ignoring the cost issue. While we hear occasionally that cost is a consideration, the actions that we are seeing, and the initiatives being proposed, seem to belie that stated concern. The BPU was created, in large part, to ensure that utility rates were affordable. Talk of "least cost" or the failure to add up all the various programs, be they taxpayer, product, or ratepayer funded, is problematic. We continue to ask the Board for a comprehensive cost impact assessment of all the various clean energy and decarbonization programs being proposed.

There is another side of this equation. Merely declaring that climate change is a threat and using flexible and inaccurate social cost of carbon considerations should not allow the BPU to skirt its responsibilities to ensure that rates are affordable for all citizens and users of energy in the state. Merely providing subsidies to lower income households is not a sustainable or effective public policy.

On a fundamental level, we also do not believe that a 100% building electrification policy is a good thing. There are three fundamental reasons for our position:

One, there has been no comprehensive planning or investment in either the transmission or generation systems adequate to support a massive building electrification policy. Two, there are other, and perhaps less costly and more efficient options, to decarbonize our building sector. Finally, electrification is not carbon free, and in the short term may even result in more carbon emissions. We will briefly discuss each of these points.

While the Energy Master Plan is largely premised on the need to decarbonize through the massive conversion of our building stock and vehicle fleets to electric power, there has been no real accounting for how this will work in the real world. Cost, practicality of implementation, building capacity, effectiveness, and the issue of older building conversions aside, electrification needs two things: the capacity of the transmission and distribution systems to handle the increased loads and in the locations needed, and sufficient generation capacity to meet these increased loads. Even the EMP envisions a doubling or tripling of generation needs.

Yet, despite this recognition, no serious plans to upgrade the grid or increase generation are in place or seriously being considered. You cannot move ahead with new sources of demand and hope that the grid and generation capacities will be there. Energy is not like traffic, where roads are not enhanced until there is a traffic failure. An energy failure means that our lives stop, people's health and wellbeing are at risk, and businesses cease operation. We are already seeing the potential for brownouts and blackouts from existing demands, as we saw from the PJM warning this past winter and as is being predicted by observers who monitor the grid.

We need to move in lockstep. We need to begin to put grid and generation capacity in place before or, at least, at the same time as we bring on more demand. To do otherwise is to risk public health and our economy. The BPU should not roll the dice with our energy future.

There are also other alternatives to building electrification that the BPU should consider. We already have an extensive network of gas infrastructure that can be utilized by converting to less carbon intensive fuels such as renewable natural gas and hydrogen. While these technologies still need further development, they will be commercially feasible in a short period of time. There is no need to rush to electrification. While boilers and other equipment may have useful lives of 10-20 years or so, the amount of carbon reduction during an early electrification mandate is inconsequential compared to the overall goals. It is better to get it right, than get it first.

We are also aware, as is the Board, that electrification is not carbon free. We purchase our electricity from the PJM grid, which is powered primarily by natural gas as well as coal. Currently, the carbon intensity of electricity from the PJM grid is higher than that from an efficient gas boiler. While some project this may change over time, it is not certain to happen, and certainly not during the useful life of a boiler installed today.

The New Jersey Department of Environmental Protection has recognized the limitations of relying on the PJM grid to lower carbon emissions when they pulled their boiler rule partly for that reason. Their EGU rule also recognized that projections of PJM carbon emissions into the future is

uncertain which is why they segmented their carbon reduction limits and tied implementation to PJM carbon emission reductions. DEP provided for an “off-ramp” if the PJM emissions do not meet expectations. If DEP is uncertain about the future of the PJM, we are not sure why the BPU is so certain.

We already touched on the issue of reliability when we highlighted the lack of transmission and generation planning and buildout. It cannot be stated strongly enough that the BPU has two primary roles – assuring energy is affordable and reliable. We already discussed how a rush to electrification is putting affordability in jeopardy. The same is true for reliability.

We are already seeing the impacts around the world when systems put carbon reduction ideology ahead of physics and sound grid management. Germany now burns more coal than they ever have, and their primary renewable energy source is biomass, largely in the form of wood. This is hardly a decarbonization policy we should follow. While Germany has invested hundreds of billions on clean energy, their carbon reduction goals have failed, their energy costs are escalating beyond affordability, and they have only been able to survive as an economy due to massive government interventions and the purchase of energy from beyond their borders.

England is also seeing its manufacturing shuttered and only an unusually warm winter allowed much of Europe to escape an energy crisis. California, too, has become susceptible to brownouts and energy price escalations. And there is more bad reliability news to come as countries and states seek to further decarbonize at a reckless pace. These issues are not to say that we should not move toward decarbonization. We should. We must. But it means that we cannot put the cart before the energy horse and that we must move methodically and prudently. To use a phrase from the Supreme Court, we should seek to decarbonize with all deliberate speed.

We are also concerned with the seeming merger of the energy efficiency program and the building electrification policy. These are separate policies with separate metrics and should be treated as such. The BPU should not seek to cover the cost of building electrification through hiding it in rates through the efficiency program. The metrics for energy efficiency should also not be merged with electrification. Such merger hides the risks, costs and benefits of each program. Each should stand or fall on its own merits and the public should not be fooled by thinking that converting to electrification would result in more benefits than it would in actuality. As in all things, transparency results in the best public policy.

In summary, we are concerned with the push toward building electrification for many reasons, including legal, cost, reliability, and effectiveness. We ask that the BPU not merge energy efficiency with electrification and that it considers other alternatives to building electrification that may ultimately be more cost effective and efficient. We look forward to further conversations.