ANALYSIS OF THE NEW JERSEY

FISCAL YEAR 2001 - 2002 BUDGET

BOARD OF PUBLIC UTILITIES

AND DIVISION OF THE RATEPAYER ADVOCATE

PREPARED BY

OFFICE OF LEGISLATIVE SERVICES

NEW JERSEY LEGISLATURE

MAY 2001

NEW JERSEY STATE LEGISLATURE

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BOARD OF PUBLIC UTILITIES AND DIVISION OF THE RATEPAYER ADVOCATE

Budget Pages....... D-471 to D-474

Fiscal Summary ($000)

	Actual FY 2000	Adjusted. Appropriation FY 2001	Recommended FY 2002	Percent Change 2001-02
State Budgeted	$22,311	$24,666	$25,166	2.0%
Federal Funds	1,657	2,300	2,625	14.1%
Other	19	0	0	—
Grand Total	$23,987	$26,966	$27,791	3.1%

Personnel Summary - Positions By Funding Source

	Actual FY 2000	Revised FY 2001	Funded FY 2002	Percent Change 2001-02
State	278	309	310	0.3%
Federal	15	21	21	0.0%
Other	0	0	0	—
Total Positions	293	330	331	0.3%

FY 2000 (as of December) and revised FY 2001 (as of September) personnel data reflect actual payroll counts. FY 2002 data reflect the number of positions funded.

Introduction

The **Board of Public Utilities** (BPU) is a regulatory authority with a statutory mandate (R.S.48:2-1 et. seq.) to ensure safe, adequate, and proper public utility services at reasonable rates for customers in New Jersey. The critical services regulated by the BPU include natural gas, electricity, water, sewer, and telecommunications including cable television. The BPU, which is funded through assessments on the industries it regulates, is currently organized "in but not of" the Department of the Treasury pursuant to a 1994 Reorganization Plan (Executive Order No. 001-94).

As part of the 1994 reorganization, the Department of the Public Advocate was also eliminated and a residual **Division of the Ratepayer Advocate** was transferred to the BPU. However, while technically within the BPU, the Ratepayer Advocate is an independent entity not subject to control or supervision by the Board. The Ratepayer Advocate represents the interests of ratepayers before the BPU and other decision-making bodies, and negotiates with utilities on behalf of ratepayers in order to avoid litigation.

Key Points

- The Governor's FY 2002 budget recommends $27.8 million from all sources for Economic Regulation, an $825,000 or 3.1 percent increase over the FY 2001 adjusted appropriation. This program class includes the Board of Public Utilities ($23.3 million) and the Ratepayer Advocacy Program ($4.4 million), both of which are fully funded by assessments levied on utilities conducting business within the State.

- Of the recommended increase, $500,000 in State funds are allocated for an "Energy Research Consortium." According to the BPU, the consortium is intended to "facilitate collaboration on R&D and the development of expertise and resources to solve and anticipate complex problems related to energy" and "seize opportunities being brought by ... technology development and deregulation in the electric and natural gas industries." In addition to State funding, the Consortium anticipates instituting a membership fee to leverage revenues from federal and private sources.

- The budget recommends an increase of $325,000 in federal funds for the BPU, from $2.3 million in the current year to $2.6 million in FY 2002. The additional federal monies are for the State Energy Conservation Program.

- The recommended budget provides funding for 331 positions, an amount which is effectively unchanged from the current number of authorized positions. Of the total, 44 positions are attributable to the Division of Ratepayer Advocate with the balance (290) attributable to the BPU itself. According to the BPU's budget request, as of January 2001, the number of filled positions was 256.

Program Description and Overview

The Board of Public Utilities (BPU) is a regulatory authority with a statutory mandate (R.S.48:2-1 et. seq.) to ensure safe, adequate, and proper public utility services at reasonable rates for customers in New Jersey. Accordingly, the BPU regulates critical services such as natural gas, electricity, water, sewer, and telecommunications including cable television. The Board addresses issues of consumer protection, energy tax reform, deregulation of energy and telecommunications services, and the restructuring of utility rates to encourage energy conservation and competitive pricing in the industry.

To accomplish its mandate, the Board conducts comprehensive reviews to determine the fairness and reasonableness of rates. The Board also has general supervisory responsibility for monitoring utility service, responding to consumer complaints, and investigating utility accidents.

Currently, there are five investor owned electric utilities, four gas companies, 100 telephone and telegraph companies, 90 water and sewer companies and 10 municipal water companies under the jurisdiction of the BPU. Its budget, which is fully funded through assessments on these regulated industries, consists of five program classes: Utility Regulation, Administration and Support Services, Regulatory Support Services, Cable Television Regulation, and Ratepayer Advocacy. Functionally, however, the BPU is organized primarily by industry.

History of the BPU

The predecessor of the BPU, the Department of Public Utilities, was established in 1911 to address the provision of essential services in this State, which at the time included railroads and interstate commerce in addition to those services under current jurisdiction. From inception, the Board was given broad authority to perform management audits and initiate investigations (based on its own initiative or on consumer complaints), appraise and value the property of utilities and approve rates and institute fees. Its wide-ranging authority was intended to mitigate the effects of monopoly enterprises and avoid disruption of economic activity.

Through periodic reorganizations, the BPU has alternatively emphasized its consumer and business advocacy functions. In 1977 the BPU was organizationally placed in the Department of Energy, then removed to the Department of the Treasury in 1987, returned to the Department of Environmental Protection and Energy in 1991, and again removed to Treasury in 1994 (where it currently remains).

Current Structure

Pursuant to the 1994 Reorganization Plan (Executive Order No. 001-94), the Board of Regulatory Commissioners (BRC) was redesignated as the Board of Public Utilities (BPU) and reconstituted "in but not of" the Department of the Treasury. As part of the 1994 reorganization, the Department of the Public Advocate was also eliminated and a residual Division of the Ratepayer Advocate was transferred to the BPU. However, despite its placement, the Ratepayer Advocate, which represents the interests of ratepayers before the BPU and other decision-making bodies, is not subject to Board control or supervision.

At present, the BPU is in a period of transition as a result of dramatic changes in competitive and environmental regulatory requirements. As summarized in its budget request, "... as the regulatory environment has been undergoing radical changes in recent years, in particular due to

Program Description and Overview (Cont'd)

energy restructuring legislation and the resulting changes to the utilities' corporate structure, we are currently reviewing agency personnel and processes in order to determine the most efficient methods of operation ..."

The challenges of deregulation are shared by public utility commissions nationwide and it may be some time before regulators sort out its full impact on agency operations (particularly with respect to staffing levels, overall mission, skill requirements, and configuration). One example of the changing environment in which the BPU operates concerns out-of-state-entities. The BPU's jurisdiction has always been limited by the State border, and its stakeholder utilities have almost always been local as well. However under market restructuring, energy utilities have been encouraged to divest their energy transmissions and sales functions, and to merge wholesale operations at a national level. Increased competition has allowed retail customers to switch from their traditional utility distribution company in order to purchase outside energy generation services from suppliers. This erosion of state borders in the face of static jurisdictional boundaries presents challenges to the agency's mission and its ability to regulate effectively. Moreover, deregulation enables utilities to seek the most advantageous state regulatory environment in which to operate, particularly with regard to environmental and tax issues.

Electric Discount and Energy Competition Act (EDECA)

As discussed generally above, the Electric Discount and Energy Competition Act (P.L.1999, c.23) established the framework and the necessary time schedules for the deregulation and restructuring of the electric and natural gas utilities in this State, with the goal of providing all New Jersey consumers with access to uncapped prices for electricity, natural gas, and other energy related services previously available only through the State's regulated public utilities. EDECA also required all electric public utilities to reduce their rates by at least 5 percent no later than August 1, 1999 and by at least 10 percent on or before the end of the third year following enactment. Rate caps are scheduled to be eliminated at the end of the third year, or in 2003, at which time ratepayers will be subject to the volatility of market-based prices.

The profound changes in the way in which electricity will be regulated and sold is expected to have significant impact on various groups of consumers and taxpayers and will have diverse effects on State revenues. Many of these effects are, however, conjectural and dependent upon the ways in which various market forces may interact. As previously noted by the Office of Legislative Services in its fiscal note for EDECA, possible effects which may impact state revenues include:

- Business enterprises may enter or leave the New Jersey electricity sales marketplace and become taxpayers and employers in this State, transfer assets to other states through mergers, or leave the State entirely.
- Corporate consumers of electricity may have profit fluctuations because of operating cost changes from the electricity rate movement.
- Consumers may seek to aggregate their purchasing power to seek better terms on their electricity prices.
- Local production companies will compete with companies in other states with different regulatory, taxation, or environmental responsibility requirements.
- Increased market share for companies in other states, who transmit power to this market, may increase ambient pollution received by this State.
- Differential electricity rates in and out of State may affect decisions about business location and expansion and thereby produce changes in corporation business tax, sales tax and gross income tax revenues.

Program Description and Overview (Cont'd)

Federal Telecommunications Act of 1996 (Telco Act)

Like energy, the telecommunications industry has also undergone substantial structural, technological and regulatory changes in recent years which have presented enormous workload challenges to the BPU.

In particular, the Federal Telecommunications Act of 1996, also known as "Telco" made sweeping revisions to communications laws which had been in existence since 1934. The Telco Act gave individual states a broad blueprint to establish rules and rates for "Competitive Local Exchange Carriers" (including AT&T, MCI, and Sprint among others) to compete against the "Incumbent Local Exchange Carriers," notably Verizon-New Jersey, in the residential and business local landline telephone markets. Verizon-New Jersey is required to file a plan for alternative regulation concerning its local telephone service. Consequently, the BPU is scheduled to engage in complex proceedings over the summer of 2001 in anticipation of a ruling before the end of the calendar year. This decision will be critical in providing the final step in opening the local telephone market to competitive local exchange carriers. As part of the process, BPU has already certified numerous telecommunications companies to compete locally.

Moreover, pursuant to Section 271 of Telco, Verizon is expected to file an application before the Federal Communication Commission (FCC) to enter the long distance market. This filing will require the BPU to review and make recommendations as to whether Verizon is in compliance with the requirements of the federal act.

The FY 2002 Budget Recommendation

Excluding Ratepayer Advocacy, the Governor's FY 2002 budget recommends $23.3 million from all sources for the BPU, an $825,000 or 3.1 percent increase over the FY 2001 adjusted appropriation.

Energy Research Consortium

Of the $825,000 increase recommended for the BPU, $500,000 in Direct State Services funding is attributable to start-up costs associated with a proposed "Energy Research Consortium." This new initiative will include public agencies, industry, and research universities organized to advance the safety, reliability and productivity of New Jersey's energy products and services through a program of pre-competitive research and technology development. The primary focus of the consortium will be to bring together public and private entities to anticipate and solve complex problems related to the generation and use of energy resources in the State. University participants will include the New Jersey Institute of Technology, which will lead the consortium, as well as Rutgers University, Stevens Institute of Technology and Princeton University.

According to the Governor's proposal for the consortium, it is anticipated that the recommended appropriation will leverage additional federal and private monies, including funding available for this type of collaborative research through the federal Department of Energy and through the institution of membership fees. The proposal further suggests that an organizing committee of the consortium will initially recruit membership, develop a comprehensive research and development plan and then establish professional staff and an executive committee to assume management of the program.

Program Description and Overview (Cont'd)

Federal Funds

The balance ($325,000) of the proposed FY 2002 increase in funding for the BPU is due to federal funds for the State Energy Conservation Program which will increase total federal funding from $2.3 million to $2.625 million.

The BPU is entirely supported by assessments on the public utility and cable television industries. In FY 2002, $27.9 million in assessment revenues including Ratepayer Advocate fees are anticipated.

Staffing

Position data in the budget recommendation indicates that BPU's $23.3 million appropriation will support 290 positions compared to 256 filled positions as of January 2001. The existing number of vacancies at the Board continues to be a concern, although as many as five positions have been filled since the beginning of the year. Specifically, the BPU faces difficulty in attracting and retaining key personnel, primarily due to salary constraints and competition from the regulated industries.

In addition to hindering the agency's day-to-day operations, on-going vacancies and staff turnover has contributed to the delay or incompleteness of several major tasks mandated pursuant to EDECA. Specifically, the BPU only recently set up a new fund to finance energy conservation and renewable energy, approximately one year after the statutory deadline. In addition, the agency has not yet established a so-called "universal" fund to subsidize ratepayers who cannot afford to pay their bills in full, and perhaps most critically, the BPU has not yet given final approval to deregulation plans for certain utilities. As a result, certain companies effectively operate under temporary orders that cannot be challenged by ratepayers.

THE DIVISION OF THE RATEPAYER ADVOCATE

Pursuant to N.J.S.A. 52:27E-50 et seq., the statutory mission of the Division of the Ratepayer Advocate is to ensure that essential services are available to all New Jersey residents, businesses, and industries at affordable rates. The Ratepayer Advocate represents utility consumers in administrative and court proceedings and at legislative hearings to advocate the interests of all State consumers of regulated services whenever the utilities under the jurisdiction of the BPU seek changes in rates and services and whenever statewide utility policy is being decided. The Ratepayer Advocate also negotiates with utilities on behalf of ratepayers in order to avoid litigation.

To accomplish its mandate, the Ratepayer Advocate investigates all aspects of a utility's request to alter rates or services. In the course of an investigation, the Ratepayer Advocate's staff attorneys, along with consulting economists, accountants, and engineers, will develop independent conclusions regarding the reasonableness of a request and prepare and file testimony that supports its conclusions and protects ratepayers' interests. Later, as a party to evidentiary hearings, the Ratepayer Advocate cross-examines the utility's witnesses and submits evidence to support the Division's position. Subsequently, if necessary, the Ratepayer Advocate will seek a specific outcome for ratepayers through litigation in the appropriate State or federal court.

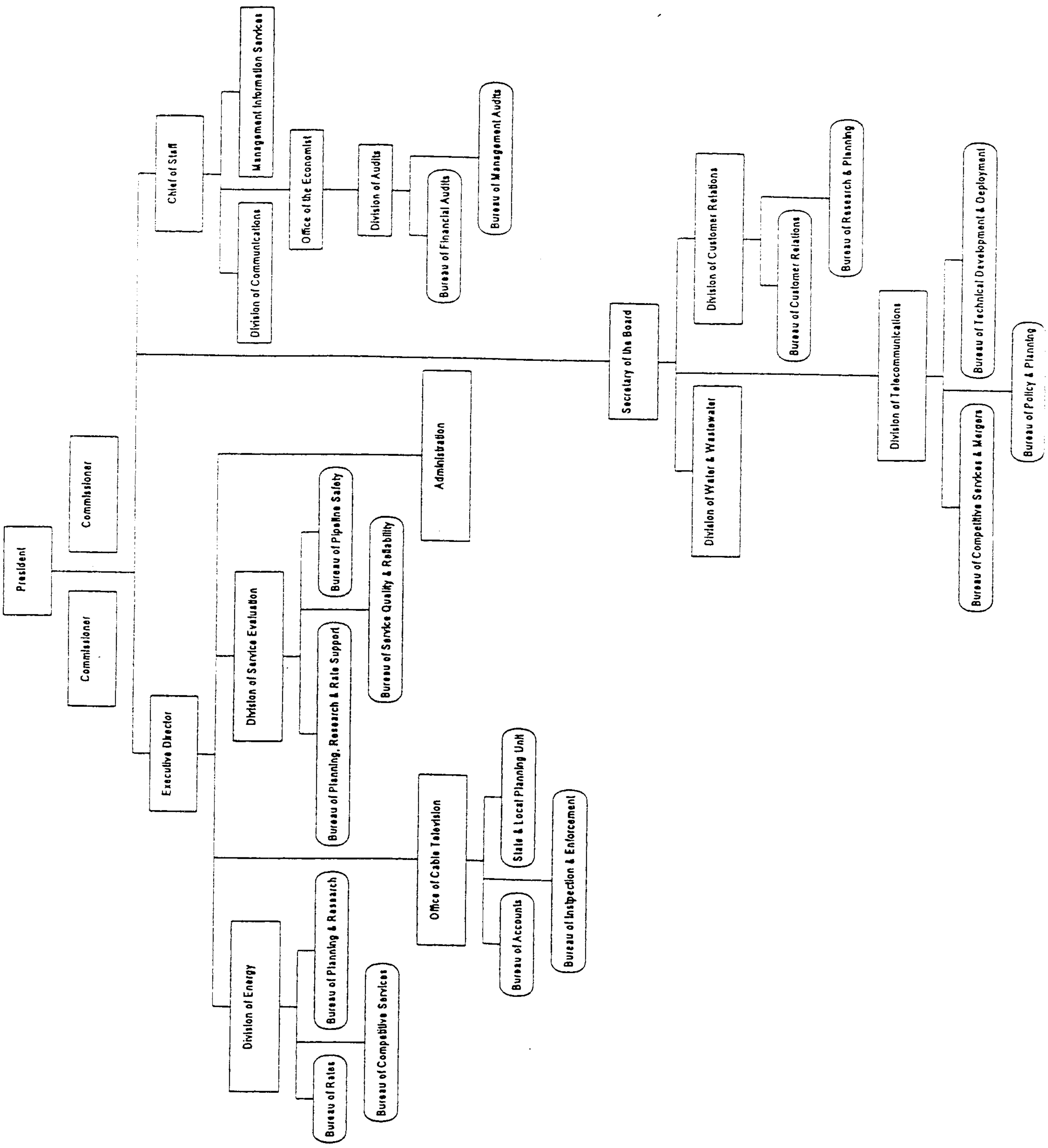
As previously noted, Executive Order 001-1994 established the Division of Ratepayer Advocate organizationally within the BPU; however, the division functions independently of the BPU and is not subject to its control or supervision. Like the BPU, the Ratepayer Advocate is fully funded by assessments imposed on regulated utilities.

Program Description and Overview (Cont'd)

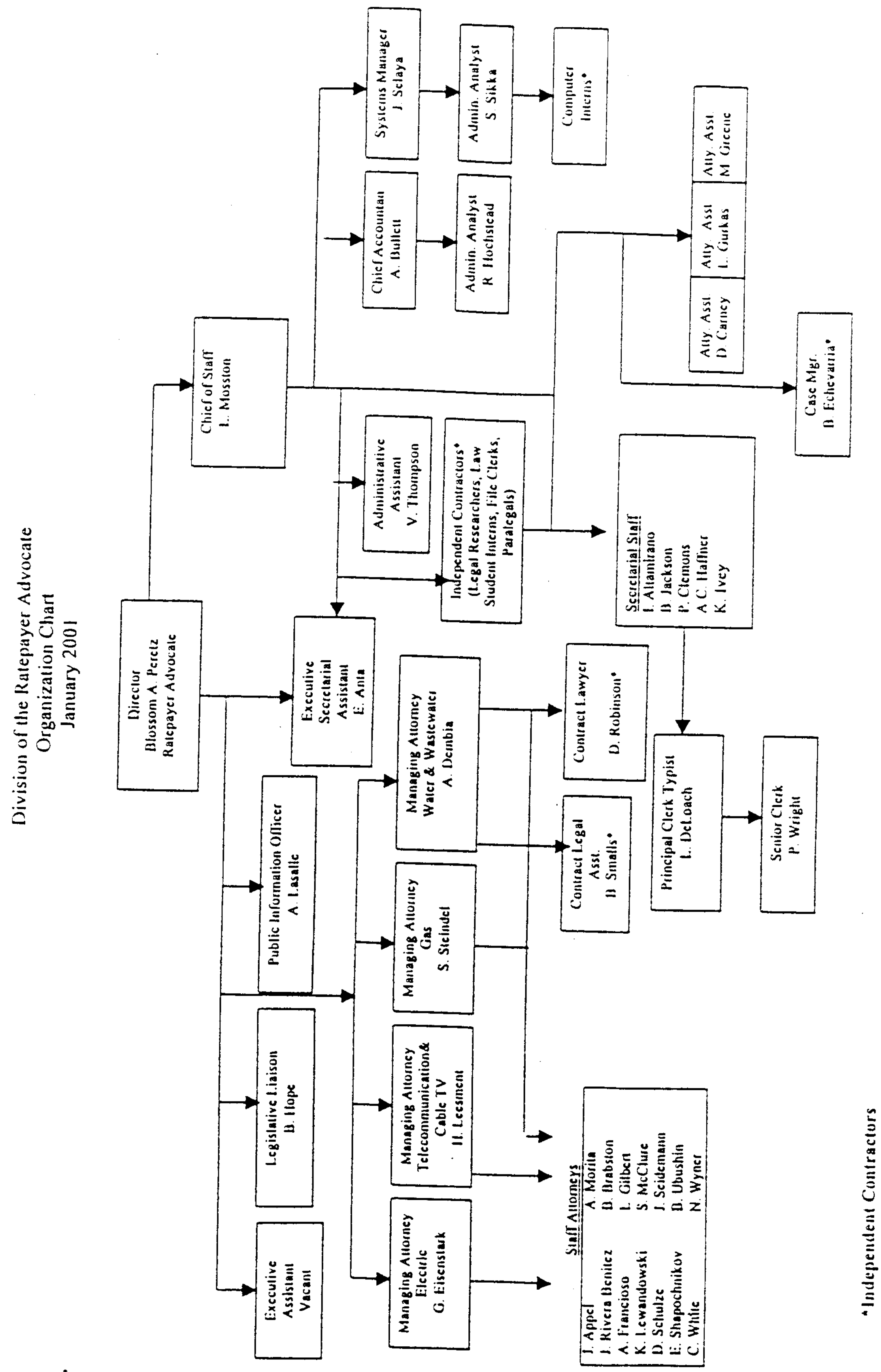
The FY 2002 Budget Recommendation

The Governor's FY 2002 budget recommends $4.4 million in State funds for the Ratepayer Advocacy Program which will provide for 44 funded positions.

Organization Chart



Organization Chart



Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS ($000)

	Expended FY 2000	Adj. Approp. FY 2001	Recom. FY 2002	Percent Change 2000-02	Percent Change 2001-02
General Fund					
Direct State Services	$22,311	$24,666	$25,166	12.8%	2.0%
Grants - In - Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Capital Construction	0	0	0	0.0%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	$22,311	$24,666	$25,166	12.8%	2.0%
Property Tax Relief Fund					
Direct State Services	$0	$0	$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	0	0	0	0.0%	0.0%
Sub-Total	$0	$0	$0	0.0%	0.0%
Casino Revenue Fund	$0	$0	$0	0.0%	0.0%
Casino Control Fund	$0	$0	$0	0.0%	0.0%
State Total	$22,311	$24,666	$25,166	12.8%	2.0%
Federal Funds	$1,657	$2,300	$2,625	58.4%	14.1%
Other Funds	$19	$	$		
Grand Total	$23,987	$26,966	$27,791	15.9%	3.1%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2000	Revised FY 2001	Funded FY 2002	Percent Change 2000-02	Percent Change 2001-02
State	278	309	310	11.5%	0.3%
Federal	15	21	21	40.0%	0.0%
All Other	0	0	0	0.0%	0.0%
Total Positions	293	330	331	13.0%	0.3%

FY 2000 (as of December) and revised FY 2001 (as of September) personnel data reflect actual payroll counts. FY 2002 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	N/A	N/A	N/A	----	----

Significant Changes/New Programs ($000)

Budget Item	Adj. Approp. FY 2001	Recomm. FY 2002	Dollar Change	Percent Change	Budget Page
ADMINISTRATION AND SUPPORT SERVICES					
Special Purpose: Energy Research Consortium	$0	$500	$500	—	D-473

This Special Purpose appropriation of $500,000 in Direct State Services funding is attributable to start-up costs associated with a proposed "Energy Research Consortium." This new initiative will include public agencies, industry, and research universities organized to advance the safety, reliability and productivity of New Jersey's energy products and services through a program of pre-competitive research and technology development. The primary focus of the consortium will be to bring together public and private entities to anticipate and solve complex problems related to the generation and use of energy resources in the State. University participants will include the New Jersey Institute of Technology, which will lead the consortium, as well as Rutgers University, Stevens Institute of Technology and Princeton University.

According to the Governor's proposal for the consortium, it is anticipated that the recommended appropriation will leverage additional federal and private monies, including funding available for this type of collaborative research through the federal Department of Energy and through the institution of membership fees. The proposal further suggests that an organizing committee of the consortium will initially recruit membership, develop a comprehensive research and development plan and then establish professional staff and an Executive committee to assume management of the program.

Budget Item	Adj. Approp. FY 2001	Recomm. FY 2002	Dollar Change	Percent Change	Budget Page
ENERGY RESOURCE MANAGEMENT					
Federal: Energy Research Management	$1,700	$2,025	$325	19.1%	D-474

The budget recommends an increase of $325,000 in total federal funds for the BPU, from $2.3 million in the current year to $2.6 million in FY 2002. The additional federal monies are for the State Energy Conservation Program.

Language Provisions

2001 Appropriations Handbook	2002 Budget Recommendations
	Notwithstanding the provisions of any other law, the balances in the Petroleum Overcharge Reimbursement Fund and the Secondary State Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of Budget and Accounting.

Explanation

The Petroleum Overcharge Reimbursement Fund (PORF) was established pursuant to P.L. 1987, c.231 to provide for the allocation and expenditure of oil over-charge settlement monies. These monies were distributed to the State as restitution arising from the resolution of litigation against certain oil companies which were found to have violated federal petroleum pricing and allocation regulations during the 1970's. As settlements were reached, funds were allocated to the states to "refund" to consumers who had been damaged by the overcharges (as a precise distribution of the settlement monies to the injured class of refined oil products purchasers was impractical). Under the terms of these agreements, the State's use of overcharge monies is limited to specific purposes or projects. These projects, which benefit petroleum users generally, include, but are not limited to: weatherization assistance programs to increase energy efficiency, various energy conservation initiatives and low income home energy assistance programs.

The proposed FY 2002 budget language would provide for the reappropriation of monies redeposited into the PORF (including monies identified as secondary state refunds) from various projects undertaken in accordance with the various settlement agreements for additional allowable projects. The amount available for reappropriation, and the projects which might be undertaken, have not been specified.

Discussion Points

1a. According to the agency's FY 2002 budget request, as of October 2000, there were 22 vacant positions at the BPU.

! Question: Please provide an update on staffing at BPU, including the number of current vacancies, recent hires, key posts remaining vacant.

What impact have recent vacancies had on the BPU's ability to address the complex issues pending before it, such as the various statutory deadlines mandated by the State's energy deregulation law?

What factors contribute to the agency's ability to attract, hire and retain qualified personnel? What is BPU doing to address recruitment and retention issues? What, if any, additional financial or other resources are needed to facilitate the agency's staffing requirements?

1b. Among the recent vacancies, it has been reported that several top-level staff (such as BPU secretary, executive director, chief of staff and energy division director) have left the agency for jobs in private industry.

Under the Code of Ethics promulgated by the commissioners of the BPU, "no former member or employee of the Board or member of the Attorney General's staff assigned to the Board may appear in a representative capacity or as an expert witness on behalf of other parties at any time within six months after severing his or her association with the Board ...."

! Question: How does the six-month prohibition against former employees appearing before the Board compare to the ethical standards established by other states' public utility commissions? Does the Board support lengthening this time period as proposed in pending legislation (S-1448 of 2000)? Would lengthening this period of prohibition help or hinder the agency's ability to hire and/or retain staff?

2a. A paper issued by The National Regulatory Research Institute (NRRI) of The Ohio State University suggests that while the inclination of policy makers may be to reduce the resources of public utility commissions following deregulation, paradoxically, the period of market transition may require an increase in overall resources so as to ensure consumer safeguards. The NRRI further observes that "there is anecdotal evidence of widespread uncertainty at public utility commissions with respect to staffing levels, mission changes, skill requirements, configurations and operations."

In its budget request, the BPU states "... as the regulatory environment has been undergoing radical changes in recent years, in particular due to energy restructuring legislation and the resulting changes to the utilities' corporate structure, we are currently reviewing agency personnel and processes in order to determine the most efficient methods of operation in this new environment."

To date, the BPU has resisted suggestions that the increasing complexity of the agency's workload requires additional funding and/or staffing.

! Question: Excluding existing funded vacancies, does the BPU still maintain that additional staff is unwarranted? What is the status of the agency's self-review, and what, if any, conclusions or recommendations have been reached? How would the BPU define its mission in terms of its current priorities and staff allocation?

Discussion Points (Cont'd)

2b. Proposed legislation (A-3289 and S-2298 of 2001) would increase the membership of the BPU from three to five citizen members to help ensure that the complex issues facing the board are addressed "effectively, thoroughly and efficiently," and to ensure that quorum requirements are met so that the important business of the board can continue when a single member is absent due to illness or recusation.

! *Question:* Does the BPU support increasing the number of commissioners from three to five? Please explain.

3. The enactment of the Energy Tax Reform law (P.L.1997, c.162) effective beginning in 1998 revised the system of State taxation over natural gas and electric power companies and utilities. The tax reform implemented in that act, treating private generators and public utilities alike, was a necessary first step before energy deregulation was attempted in this State.

The 1997 act included a requirement that "the BPU conduct a review of all telecommunications taxes, including an analysis of alternative taxes, and evaluate their potential for providing property tax relief and their impact under the on-going transition to a more competitive and technologically diverse market and submit its findings and recommendations in a written report to the Governor and the Legislature on or before December 31, 1997."

Subsequent to the 1997 act, 506 municipalities now find that their local budgets may no longer include approximately $30 million from a local telecommunications company (Verizon) personal property tax levy because of a tax accounting change implemented by that company under a tax system that dates from the local telephone monopoly age.

! *Question:* Was that analysis ever completed and were the findings and recommendations ever submitted to the Governor and the Legislature? If completed, please provide a copy of the analysis. If not, please indicate when this analysis might be completed.

4a. The Independent System Operator in California has recently determined that electricity wholesalers have overcharged California more than $5 billion since May by manipulating the energy market. Moreover, the purchase of energy by the State of California to stem that state's current energy supply crisis is reducing its budget surplus.

! *Question:* What safeguards are in place in New Jersey, through the BPU's oversight of the private wholesale power supply industry, that would prevent such a scenario from occurring in this State?

4b. Lately, state regulators and utility industry representatives in the Northeast have begun warning that prolonged heat waves could result in price spikes and possible blackouts and brownouts this summer.

! Question: How is New Jersey, through the BPU, cooperating with other states in our region to prepare for possible energy shortages this summer? What steps are being taken to avoid power shortages this summer?

4c. Many New Jersey homeowners experienced increased energy costs during the 2000-2001 winter season, in some instances doubling compared to the 1999-2000 season. Moreover, national data indicate that the number of households asking for government help to meet heating bills increased 25 percent over this same period. According to the data, New Jersey was one of seven

Discussion Points (Cont'd)

states with more than 150,000 households applying for assistance.

! Question: Please comment on the reasons for the increase in residential energy costs this past winter. What steps can be taken by the BPU to hold down energy costs?

5. Pending legislation (Assembly Bill No. 2843 of 2000) directs the BPU to require an independent audit of the cost to Verizon of providing local residential telephone service. The goal of this legislation is to expedite the opening of local telephone markets to competition.

! *Question:* Does BPU support such an audit, and if not, what are its objections? What remedies would be available to the BPU to address any problems the audit may disclose?

6. The energy deregulation law ("Electric Discount and Energy Competition Act, P.L.1999, c.23) requires the BPU to establish a Universal Service Fund. This fund is intended to be the central clearinghouse for all low-income related assistance, and the associated program a one-stop shopping resource for all who need financial assistance in paying their energy bills. The law requires the BPU to determine the level of funding and the appropriate administration of the fund. The law also requires the BPU to determine the purposes and programs to be funded with monies from the fund. The BPU adopted an interim universal service plan last fall; however a comprehensive, long-term plan has not yet been established.

! *Question:* What is the current time frame for developing a comprehensive, long-term Universal Service plan? Does the BPU have the resources to execute the plan?

7. GPU Energy, the State's second largest utility, has reported losses of nearly $230 million for calendar year 2000. These losses, referred to as "deferred costs" because they are eligible to be deferred for recovery from ratepayers until after the transition period for deregulation ends in 2003, are attributable to the gap between: 1) high wholesale prices and capped retail prices; and 2) the costs of non-utility generator contracts which were entered into prior to deregulation which bind GPU to certain electricity purchases.

According to published statements, GPU's director of power market evaluation, David Roberts, has stated that due to mandated rate reductions under deregulation and higher wholesale costs, the utility's deferred costs could grow to nearly $650 million by the end of 2001. Moreover, GPU has also reported losses of $145 million in its Pennsylvania market where, unlike New Jersey, deficits cannot be recovered at the end of the deregulation transition period.

! *Question:* What is the potential impact on rates (post transition) of current and projected deferred costs for residents within GPU's territory? What measures, if any, might the BPU consider to mitigate the impact of deferred costs after the transition period ends? What impact, if any, will revenue losses in Pennsylvania have on GPU's New Jersey market/ratepayers?

With respect to the State's largest utility, Public Service Electric & Gas (PSE&G), please estimate the magnitude of current and, if possible, projected deferred costs through 2002. What is the potential impact on rates, post transition, of PSE&G's current and/or projected deferred costs?

8a. Since the market for retail energy competition was opened up, approximately two percent

Discussion Points (Cont'd)

of the State's residential customers have switched from their utility distribution company to an outside power supplier. While the number of residential customers who had switched to an outside supplier stood at 73,133 (2.4%) as of July 2000, that number had declined to 67,111 (2.2%) by December 2000. At the same time, few of the power suppliers who had been advocating deregulation have marketed in the state, and several suppliers who had initially entered the New Jersey market have subsequently stopped marketing here citing lack of profitability.

Currently, the New Power company, a spinoff of Enron Corporation, is the State's most active marketer to residential customers. However, despite its continued presence in the New Jersey market, an article published in the *Bergen Record* (1/14/01) quotes the company's chief executive as stating the process of converting leads to customers in this State is more onerous than any other state.

! *Question:* Please explain the lack of competition in the residential market. What can be done to entice energy suppliers to do business in the State? What recommendations does the BPU have for the Legislature if there continues to be little progress on the demand side? supply side?

Please provide an update on the number of residential and commercial customers who have switched energy suppliers. Currently, what companies are actively marketing to residential consumers? What companies are not longer marketing, but continuing to serve existing customers?

Please provide up-to-date evaluation data regarding consumer complaints and describe the nature of the most common complaints related to deregulation.

8b. Since the opening of the energy market, there has been no government aggregation of residential customers. A request for proposal issued by Bergen County which would have combined the residential and commercial loads of several towns received no bids.

! *Question*: Please discuss the lack of aggregation. What remedies does BPU propose to overcome current obstacles to aggregation?

9. The main environmental issue surrounding energy restructuring involves concerns over whether increased demands for cheaper energy will result in increased production at Midwestern coal-fired plants, potentially causing an increase in emissions of nitrogen oxide and carbon dioxide which may be transported by prevailing winds to the Northeast.

In general terms, the restructuring of the electric utility industry may start a search for the least expensive sources of electricity available to New Jersey consumers. To the extent that a competitive market provides opportunities for low-cost generators to increase generation and to the extent that cost differentials are due to regional differences in emission standards, an increase in generation at coal-fired plants, for example, would result in a corresponding increase in emissions.

! *Question:* What steps might the BPU take to ensure that energy restructuring does not result in a negative impact to New Jersey's air quality?

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Individuals wishing information and committee schedules on the FY 2002 budget are encouraged to contact:

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