



Agenda Date: 2/07/07
Agenda Item: 2E

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

ENERGY

IN THE MATTER OF THE DEFERRED
BALANCES AUDIT OF PUBLIC SERVICE
ELECTRIC AND GAS COMPANY, PHASE II:
AUGUST 2002 – JULY 2003)

ORDER OF TRANSMITTAL
TO THE OAL FOR HEARING

Docket Nos. EX02060363 &
EA02060366

(SERVICE LIST ATTACHED)

BY THE BOARD:

As part of the restructuring approved in the Board's Restructuring Order of August 24, 1999 in Docket Nos. EO97070461, EO97070462 and EO97070463, Public Service Electric and Gas Company (Company or PSE&G) received a cash advance of \$540 million from its affiliate PSEG Power toward the recovery of the generating units' stranded costs. The advance was to be used to reduce PSE&G's capitalization and was to be repaid from the revenues collected by PSE&G from (1) its market Transition Charge (MTC); (2) the amortization of its excess depreciation reserve; and (3) a \$0.002 per kWh "retail adder" applied to the Basic Generation Service (BGS).

The Board's Restructuring Order provided that if, at the end of a four-year Transition Period, the above noted revenue sources were not sufficient to fully repay the \$540 million advance, the shortfall was to be absorbed by PSEG Power. If the \$540 million were to be over-recovered, the excess revenue was to be refunded to PSE&G's ratepayers by way of credits in the Societal Benefits Charge (SBC).

In Phase I of the Deferred Balances proceeding (Docket No. ERO2080604) the Company estimated there would be an over recovery of \$205.1 million by the end of the Transition Period (July 31, 2003). In Phase II of the Deferred Balances proceeding the Company calculated an over-recovery of \$197.601 million based on actual transitional period data through July 31, 2003. It is the calculation method used to arrive at this amount that is at issue in this proceeding.

By letter dated May 13, 2005 the Board, in a letter from the Board's Secretary, posed a series of questions to the parties as to the appropriateness of the Company's method of calculating the amounts to be refunded to its ratepayers. Initial and reply comments addressing the Board's questions were filed by the Rate Counsel and the Company.

By letter dated January 31, 2007, the Company has requested that the issue of the reconciliation of the Company's MTC collections matter be transmitted to the Office of Administrative Law (OAL) for the development of an evidentiary record, conduct of an evidentiary hearing and an initial decision. Rate Counsel's response of February 2, 2007 contended that the positions of the parties are well known and an evidentiary hearing would only serve to delay the process. Rate Counsel requested the Board hear this matter itself so that the issue can be resolved quickly.

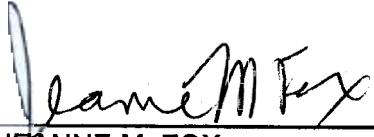
DISCUSSION AND FINDINGS

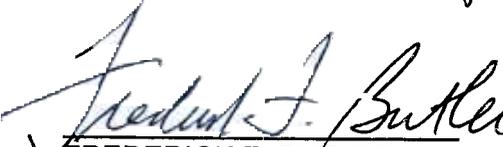
The Board has carefully reviewed the comments filed in this proceeding as to whether the Board should retain this matter or transmit it to the OAL. The Board FINDS that, given the dispute between the Parties over the method of calculation of the MTC over-recovery, the Board in its discretion should transfer the issue of the method of calculation of the MTC over-recovery and the amount due ratepayers to the OAL for review, an evidentiary hearing if necessary and an Initial Decision. By transmitting this matter to the OAL, the Board is not reaching a decision on whether this issue would be appropriate for summary decision pursuant to N.J.A.C. 1:1-12.5 in the event a party files such a motion with the Administrative Law Judge.

The Board ORDERS that this proceeding, including all filings and comments received to date, be transmitted to the OAL Office for a review of the issue of the method of calculation of the MTC over-recovery and the amount due ratepayers. The Board requests that the OAL schedule this matter on an expedited basis.

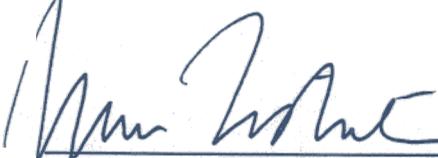
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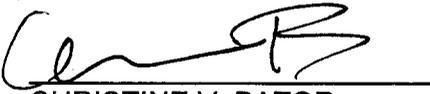
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

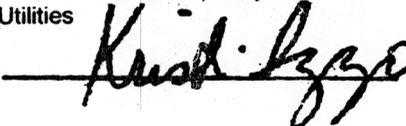

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
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



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AND GAS COMPANY, PHASE II: AUGUST 2002-JULY 2003 AUDIT

BPU DOCKET NOS. EX02060363 & EA20260366

Seema Singh, Director
Public Advocate and Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07102
Phone: (973) 648-2690
Fax: (973) 624-1047
ssingh@rpa.state.nj.us

Judith Appel, Esq.
Public Advocate and Rate Counsel
31 Clinton Street
PO Box 46005
Newark, NJ 07102
Phone: (973) 648-2690
Fax: (973) 648-1047
jappel@rpa.state.nj.us

Felicia Thomas-Friel, Esq.
Henry Ogden, Esq.
Division of Ratepayer Advocate
31 Clinton Street, P.O. Box 46005
Newark, NJ 07102
Phone: (973) 648-2690
Fax: (973) 624-1047
ftthomas@rpa.state.nj.us

Nusha Wyner, Director
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
Phone: (973) 648-3621
Fax: (973) 648-2467
nusha.wyner@bpu.state.nj.us

Henry Rich, Supervisor
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
Phone: (973) 648-4960
Fax: (973) 648-2467
henry.rich@bpu.state.nj.us

Sheila Iannaccone, Bureau Chief
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
Phone: (973) 648-3705
Fax: (973) 648-2467
sheila.iannaccone@bpu.state.nj.us

Suzana Loncar, Esq.
Division of Law
Department of Law & Public Safety
124 Halsey Street, P.O. Box 45029
Newark, NJ 07102
Phone: (973) 648-4866
Fax: (973) 648-7156
Suzana.loncar@law.dol.lps.state.nj.us

Gregory Eisenstark, Esq.
Assistant Corporate Rate Counsel
Public Service Electric & Gas Co.
80 Park Plaza, T8C
P.O. Box 570
Newark, NJ 07101
Phone: (973) 430-6281
Fax: (973) 648-0838
gregory.eisenstark@pseg.com

Vern Cumarasegaran
Board of Public Utilities
Two Gateway Center, Newark NJ 07102
Phone: (973) 648-4968
Vern.cumarasegaran@bpu.state.nj.us

Jerome May
Board of Public Utilities
2 Gateway Center, Newark NJ
Phone: 973-648-4950
Jerome.may@bpu.state.nj.us