



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY & ENERGY

IN THE MATTER OF PETITION OF PUBLIC)	ORDER ON MOTIONS FOR
SERVICE ELECTRIC AND GAS COMPANY FOR)	INTERVENTION, DESIGNATING
APPROVAL OF A SOLAR LOAN PROGRAM II)	A PRESIDING COMMISSIONER
AND ASSOCIATED COST RECOVERY)	AND ADOPTING SCHEDULE
MECHANISM)	
)	DOCKET NO. EO09030249

(SERVICE LIST ATTACHED)

BY THE BOARD:

By Order dated August 7, 2008, in *I/M/O the Renewable Energy Portfolio Standard*, Docket No. EO06100744 ("August 7 Order"), the New Jersey Board of Public Utilities ("Board") directed Public Service Electric and Gas Company ("PSE&G") to file with the Board an SREC-based financing plan by March 31, 2009. Pursuant to the August 7 Order, PSE&G's proposed SREC-based financing plan could be structured as a modification of the solar loan program approved by the Board in an Order dated April 16, 2008 in Docket No. EO07040278 provided that the modifications are sufficient to enable the loan program to support the transition to a market-based approach to delivering incentives for solar electric generation.

On March 31, 2009, PSE&G filed its SREC-based finance program as directed by the August 7 Order: *In the Matter of the Petition of Public Service Electric and Gas Company for Approval of a Solar Loan II Program and an Associated Cost Recovery Mechanism*, BPU Docket No. EO09030249 ("Solar Loan II Program" or "Program"). PSE&G supplemented this filing on April 13, 2009, and Staff sent a letter determining administrative completeness on April 30, 2009.

By letter received on April 29, 2009, Susan P. LeGros, Esq. filed a motion to intervene on behalf of the Solar Alliance ("SA"). According to the motion, SA is a non-profit trade association of approximately 30 companies doing business in New Jersey and providing solar energy equipment, services and expertise to retail customers, many of whom are retail electric customers of PSE&G. In its motion SA asserts that it has a unique interest in these proceedings because the Program is likely to have an impact on the size and nature of solar projects in PSE&G's service territory and thus have an impact on the businesses of SA's members.

By letter received on May 11, 2009, R. William Potter, Esq., attorney representing the Mid-Atlantic Solar Energy Industries Association ("MSEIA"), filed a motion to intervene in these

proceedings. According to the motion, many of MSEIA's members are solar photovoltaic developers and installers active in the PSE&G service area with a significant economic stake in the outcome of this docket. MSEIA claims that alternative participant status pursuant to N.J.A.C. 1:1-16.5 will not protect MSEIA's interests and will not assist the Board and other parties in fashioning a just outcome.

By letter received on May 11, 2009, James C. Meyer, Esq., filed a motion to intervene in these proceedings on behalf of the Rockland Electric Company ("RECO"). According to the motion, the Program will have an impact on the procurement and pricing of Basic Generation Supply ("BGS"), and the satisfaction of the Renewable Portfolio Standards ("RPS") requirements. RECO asserts that the Solar Loan II Program will affect solar energy programs that have been or may be proposed for RECO's service territory. Specifically, RECO maintains that the decision in this proceeding may influence two pending RECO proposals before the Board: (i) the solar loan program filed in Docket No. EO08090703, and (ii) the SREC-based financing program filed in Docket No. EO09020097.

PSE&G does not object to the above-referenced motions to intervene, and no other responses to the motions were received.

FINDINGS AND DISCUSSION

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. the prospect for confusion and delay arising from inclusion of the party; and
4. other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See, Order, *I/M/O the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control*, Docket No. EM05020106 (June 8, 2005).

The Board agrees with the movants that the Program, if approved, has the potential to significantly affect the solar generation market in the State. Based upon the above discussion, and no objections having been filed after due notice, the Board **HEREBY FINDS** that, as demonstrated in their motions, RECO, SA, and MSEIA have an interest in the outcome of these

proceedings that is sufficiently different from that of the other parties, and that each has committed to working cooperatively and constructively with the other parties to these proceedings. The Board HEREBY GRANTS intervenor status to RECO, SA, and MSEIA.

The Board has determined that the petition described above should be retained by the Board for review and hearing as authorized by N.J.S.A. 52:14F-8. As authorized by N.J.S.A. 48:2-32, the Board HEREBY DESIGNATES Commissioner Fiordaliso as the presiding officer who is authorized to rule on all motions that arise during the proceedings and modify the schedule as necessary to secure just and expeditious determination of the issues.

To expedite review of this matter while providing an opportunity for discovery and public comment, the Board HEREBY ADOPTS the schedule described on Attachment A which was developed after notice to the service list. This schedule is subject to modification by the Board or the designated presiding officer as necessary and appropriate in the interests of economy and justice.

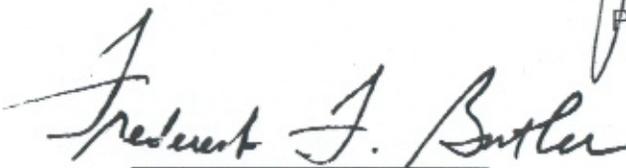
Also in the interests of economy, all parties are HEREBY DIRECTED to serve all documents electronically, while still providing hard copies to the Board for those documents which must be filed with the Board, and also providing 2 hard copies to each party, if requested.

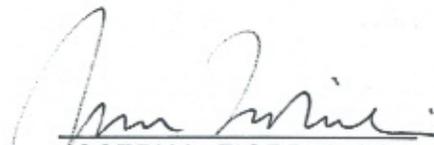
Finally, the Board DIRECTS Staff to provide a copy of this Order to individuals and entities listed on the attached service list, including those added by this Order, and to post this Order on the Board's website.

DATED: 6/15/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

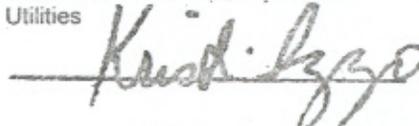

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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



Attachment A

PSE&G Solar Loan II Schedule

Motions to Intervene/Participate Due	June 15, 2009
Oppositions to Motions to Intervene/Participate	June 22, 2009
Discovery Requests on Initial Testimony*	June 19, 2009
Responses to Discovery on Initial Testimony	June 30, 2009
Discovery Conference	Week of June 29, 2009
Second Round of Discovery Due	July 10, 2009
Responses to Second Round of Discovery Due	July 21, 2009
Public Hearings	Week of June 22
Intervener / Respondent Testimony	July 29, 2009
Discovery on Intervener/Respondent Testimony	August 5, 2009
Responses to Discovery on Intervener/Respondent Testimony	August 17, 2009
Rebuttal Testimony	August 24, 2009
Discovery on Rebuttal Testimony	August 31, 2009
Responses to Discovery on Rebuttal Testimony	September 8, 2009
Evidentiary Hearings (if necessary)*	September 9-11, 14, 2009
Position Papers	September 21, 2009
Anticipated Board Action	October 7, 2009

- Discovery will proceed on a rolling basis subject to the scheduled end date, with responses due within seven (7) business days unless otherwise agreed to by the parties.
- Settlement Conference - TBA
- Oral Surrebuttal allowed at Evidentiary Hearing