



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**ENERGY**

IN THE MATTER OF THE PETITION OF NEW	)	ORDER DESIGNATING
JERSEY LARGE ENERGY USERS COALITION FOR A	)	PRESIDING COMMISSIONER
GENERIC PROCEEDING TO CONSIDER MITIGATING	)	
THE IMPACT OF UTILITY SURCHARGES ON LARGE	)	
COMMERCIAL AND INDUSTRIAL CONSUMERS FOR	)	
PROGRAMS AUTHORIZED PURSUANT TO SECTION 13)	)	
OF THE REGIONAL GREENHOUSE GAS INITIATIVE	)	
LAW N.J.S.A.48:3-98.1 ET. SEQ.	)	DOCKET NO. EO09100883

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On October 30, 2009, the New Jersey Large Energy Users Coalition ("NJLEUC") petitioned the Board of Public Utilities ("Board") to initiate a generic proceeding to establish one or more alternative cost recovery mechanisms to mitigate the financial impact on large commercial and industrial ("C&I") energy consumers of surcharges imposed to fund utility programs authorized pursuant to Section 13 of the Regional Greenhouse Gas Law, N.J.S.A. 48:3-98.1 *et seq.* (the "RGGI Law"). NJLEUC further requested that the Board direct the Board's Staff to convene all interested parties to determine an appropriate procedural framework for the generic proceeding.

NJLEUC is comprised of many of the State's largest business enterprises, which are the largest users of electricity and natural gas on the distribution systems of New Jersey's electric and natural gas utilities. In its petition, NJLEUC claims that, in a competitive environment, its members are burdened with a disproportionate share of the costs of RGGI Law programs. NJLEUC sites numerous plant closings and job losses because of the high price of energy in the state.

NJLEUC has proposed three alternative cost recovery mechanisms for the Board's consideration that may serve as a starting point for analysis in the generic proceeding: (i) an opt-out provision, which would allow a large C&I consumers to opt-out of a utility-sponsored RGGI Law program if the consumer meets certain criteria; (ii) a surcharge "phase-out" provision, which would establish usage based-tiers with the surcharge amount decreasing as consumption

increases; and (iii) a “hard cap” provision, which would place an annual cap on charges payable by large C&I consumers for RGGI Law programs. NJLEUC also welcomes any possible additional options for consideration.

This proceeding stems from Stipulations in the Atlantic City Electric Company (“ACE”) Demand Response Petition (“ACE DR”) <sup>1</sup> and in the Energy Efficiency Economic Stimulus Petitions (“EEE Stimulus Proceedings”) for Public Service Electric and Gas Company (“PSE&G”), Elizabethtown Gas Company (“ETG”) and South Jersey Gas Company (“SJG”),<sup>2</sup> in which the parties expressed their support for a separate, generic Board proceeding to address NJLEUC’s proposals regarding costs to large C&I customers for utility sponsored energy efficiency and demand response programs.<sup>3</sup> Staff also expressed support for a separate generic Board proceeding to address NJLEUC’s proposals in PSE&G’s Solar 4 All Proceeding.<sup>4</sup>

In each Stipulation, NJLEUC agreed not to oppose the programs, and Staff and Rate Counsel committed to support a generic filing by NJLEUC that would seek alternative cost recovery mechanisms designed to lessen the financial burden of proposed surcharges on its members.

By orders dated July 16, 2009, July 24, 2009, August 3, 2009 and July 31, 2009, pursuant to N.J.S.A. 48:3-98.1, the Board approved the Stipulations. While the Board did not order a generic proceeding, it did note that it was mindful of NJLEUC’s call for a separate generic Board proceeding and that it could be valuable to review the options that NJLEUC has suggested for large C&I consumers and possibly additional options as well.

Consistent with the Board’s July 16, 2009, July 24, 2009, August 3, 2009 and July 31, 2009 Orders in this matter, the Board **HEREBY DIRECTS** Staff to convene all interested parties to determine a procedural framework for the generic proceeding to evaluate potential alternative recovery mechanisms for large C&I electric and gas utility consumers subject to the RGGI Law surcharges. Further, having determined that NJLEUC’s petition should be retained by the Board for hearing, as authorized by N.J.S.A. 48:2-32, the Board will **HEREBY DESIGNATE** a

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<sup>1</sup> I/M/O Atlantic City Electric Company’s responsive petition to the Board of Public Utilities order dated July 1, 2008 regarding the submission of demand response programs for the period beginning June 1, 2009 for electric distribution companies, and for supplemental inclusion of same in its “blueprint for the future” filing dated November 19, 2007 Docket Nos. EO08050326, EO08080543, and EO07110881; and I/M/O the demand response programs for the period beginning June 1, 2009 – electric distribution programs. Docket No. EO08050326 Order dated July 31, 2009.

<sup>2</sup> I/M/O of the Energy Efficiency Programs and an Associated Cost Recovery Mechanism BPU Docket No. EO09010056; and I/M/O of the Petition of Public Service electric and Gas Company Offering an Energy Efficiency Economic Stimulus Program in its Service Territory on a Regulated Basis and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1 Docket No. EO09010058, Order dated July 16, 2009.; In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Approval of Energy Efficiency Programs and a Regional Greenhouse Gas Initiative Cost Recovery Rider, BPU Docket No. GO09010060, Order dated August 3, 2009.; and I/M/O of the Petition of South Jersey Gas Company for Approval of an Energy Efficiency Program (“EEP”) with an Associated Energy Efficiency Tracker (“EET”), Pursuant to N.J.S.A. 48:3-98.1 and to Modify Rate Schedule EGS-LV. BPU Docket No.; GO09010059, Order dated July 24, 2009.

<sup>3</sup> PSE&G and Elizabethtown Gas Company took no position with respect to NJLEUC’s position to commence a separate generic proceeding to address the allocation of costs to large C&I customers.

<sup>4</sup> In the Matter of the Petition of Public Service Electric and Gas Company for Approval of a Solar Generation Investment Program and an Associated Cost Recovery Mechanism BPU Docket No. EO09020125 and Order dated August 3, 2009. The Company and the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”) took no position with respect to this issue.

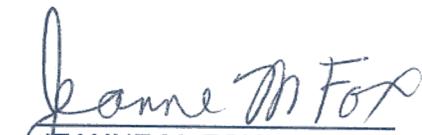
Commissioner at a later date as the presiding officer who is authorized to rule on all motions that arise during the proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.

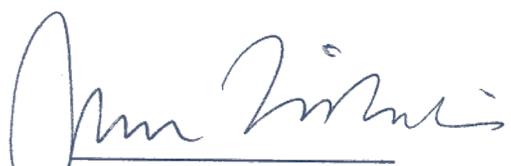
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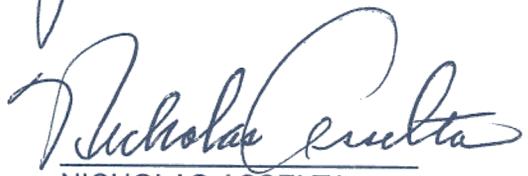
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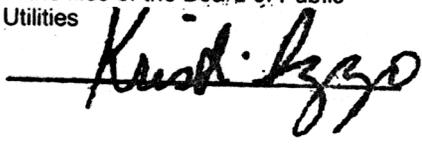
  
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I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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to Consider Mitigating the Impact of Utility Surcharges on Large Commercial and  
Industrial Consumers for Programs Authorized Pursuant to Section 13 of the Regional  
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BPU Docket No. ~~13P~~ E 0 09100 883

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