



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

State of New Jersey

BOARD OF PUBLIC UTILITIES
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/
(609)777-3300

Joseph L. Fiordaliso
President

Mary-Anna Holden
Commissioner

Dianne Solomon
Commissioner

Upendra Chivukula
Commissioner

Bob Gordon
Commissioner

March 3, 2022

To the Service List:

RE: IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF AN INFRASTRUCTURE ADVANCEMENT PROGRAM (IAP)

DOCKET NOS. EO21111211 AND GO21111212

Prehearing Order dated March 1, 2022

Please be advised that Presiding Commissioner Mary-Anna Holden is redistributing the Prehearing Order in the above referenced matter with the following changes:

1. On page 13, Section 1, of the Prehearing Order, the second bullet point under "Major Policy Issues" incorrectly provides "[e]nsure prudence of all costs," and as such, that bullet point was removed; and
2. David Wand, Esq. and Maura Caroselli, Esq. are added to the list of designated attorneys for the New Jersey Division of Rate Counsel.

These are the only changes to the issued Prehearing Order which will be redistributed to the parties of record and the attached service list.

Sincerely,

A handwritten signature in blue ink that reads "Aida Camacho-Welch".

Aida Camacho-Welch
Secretary of the Board

the IAP is intended to improve last mile reliability while supporting the electrification of the transportation sector and increased use of Distributed Energy Resources.

As noted in the Petition, the proposed Program includes 12 electric projects totaling approximately \$708 million, and one (1) gas project costing approximately \$140 million, as summarized below:

Subprogram	Project	Cost
Electric Outside Plant Subprogram	Buried Underground Distribution Cable Replacement Project	\$80 million
	Spacer Cable Conversion Project	\$42 million
	Lashed Cable Replacement Project	\$14 million
	Pole Upgrade Project	\$32 million
	Spacer Upgrade Project	\$15 million
	Conventional Underground Cable Replacement Project	\$23 million
	Open Wire Secondary (“OWS”) Upgrade Project	\$36 million
	Voltage Optimization Project	\$55 million
Substation Modernization Subprogram	26kV Station Upgrade Project	\$33 million
	West Orange Switching Station Project	\$72 million
	4kV Substation Modernization Project	\$172 million
Electric Vehicle (“EV”) Charging Infrastructure Subprogram	EV Charging Infrastructure Project	\$134 million
Gas Metering and Regulating Station Modernization Subprogram	Gas Metering and Regulating Station Modernization Project	\$140 million

PSE&G proposed a cost recovery method that included new electric and gas IAP rate components of the Company’s Infrastructure IAP Charges for its electric and gas tariffs, with the potential for semi-annual rate adjustment filings beginning October 31, 2022. Costs to be included in rates would include depreciation/amortization expense providing for the recovery of the invested capital over its useful book life, return on the net investment, and the impact of any tax adjustments applicable to the Program. As proposed by PSE&G, the return on net investment would be based upon the weighted average cost of capital (“WACC”) approved by the Board in PSE&G’s most recent base rate case.¹ PSE&G further proposed that any change in the WACC

¹ In re the Petition of Public Service Electric and Gas Company for Approval of an Increase in Electric and Gas Rates and for Changes in Tariffs for Electric and Gas Service, B.P.U.N.J. No. 16 Electric and B.P.U.N.J. No. 16 Gas, and for Changes in Depreciation Rates, Pursuant to N.J.S.A. 48:2-18, N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, and for Other Appropriate Relief, Decision and Order Adopting Initial Decision and Stipulation, BPU Docket Nos. ER18010029 and GR18010030, OAL Docket No. PUC 01151-18, Order dated October 29, 2018.

authorized by the Board in any subsequent base rate case be reflected in the subsequent revenue requirement calculations.

PSE&G also proposed to maintain baseline capital spending levels of \$248 million annually for electric investments, and \$176 million annually for gas investments. These levels were based upon the projected baseline capital budget from 2022 through 2026, along with an additional amount of proposed base rate recovery spending on work similar to that proposed for the IAP. Further, PSE&G's gas baseline capital spending level was based upon the 2022 gas capital depreciation level.

According to the Petition, the forecasted cumulative impact of the Program on the typical residential electric customer is an increase of approximately \$2.30 in their average monthly bill or approximately 2.08% on an average annual bill. The forecasted cumulative impact on the typical residential gas heating customer is an increase of approximately \$0.95 in their average monthly bill or approximately 1.25% on an average annual bill.

On December 15, 2021, the Board executed an Order designating myself, Commissioner Mary-Anna Holden, as Presiding Commissioner, with the authority to rule on all motions that arise during the pendency of these proceedings, and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.² The Board further ordered that entities seeking to intervene or participate in this matter must file the appropriate application with the Board by January 14, 2022, and any party wishing to file a motion for admission of counsel *pro hac vice* should do so concurrently with any motion to intervene or participate.

II. THE MOTIONS

Motions to Intervene:

The New Jersey Large Energy Users Coalition

On December 20, 2021, The New Jersey Large Energy Users Coalition ("NJLEUC") timely filed a Motion to Intervene.

According to its Motion, NJLEUC claimed it satisfied all factors for intervention set forth in N.J.A.C. 1:1-16. NJLEUC explained it was formed to monitor regulatory and rate proceedings involving New Jersey's electric and natural gas utilities, and has consistently been granted intervenor status in PSE&G's regulatory, merger, rate, and infrastructure proceedings. Since NJLEUC's members purchase gas and electric services from PSE&G, NJLEUC argued that its members will be substantially affected by the costs of electric and natural gas service charges from the IAP. Additionally, NJLEUC argued that, as an association of large end-use customers of PSE&G, its interests are unique and separate from that of other parties. NJLEUC stated that it can provide a unique perspective and insight regarding the potential impact of the IAP's costs because many of its members are national businesses that assess their desire to invest in New Jersey operations based upon New Jersey's competitiveness in the market. These assessments take into account

² In the Matter of the Petition of Public Service Electric and Gas Company for Approval of an Infrastructure Advancement Program (IAP), Order Designating Commissioner and Setting Manner of Service and Bar Date, BPU Docket Nos. EO2111211 and GO2111212, Order dated December 15, 2021 ("December 15, 2021 Order").

proceedings like this matter, and no other party has access to the number of individuals who pursue such a significant investment as NJLEUC. Finally, NJLEUC stated that it will not delay or disrupt these proceedings, and will endeavor to work cooperatively with other parties.

New Jersey Laborers-Employers Cooperation and Education Trust

On January 19, 2022, The New Jersey Laborers-Employers Cooperation and Education Trust (“NJLECET”) filed a Motion to Intervene.

According to its Motion, NJLECET is a nonprofit labor management fund representing over 25,000 laborers in New Jersey, and its membership is comprised of local unions engaged in the construction and heavy highway construction industries. NJLECET’s management is comprised of representatives from labor and the Associated Construction Contractors of New Jersey who work for New Jersey’s utilities, including PSE&G.

NJLECET argued that its interests are sufficiently different from the other participating parties because its members have extensive experience with large-scale New Jersey construction, and they are uniquely situated to advise on costs and feasibility of planned infrastructure projects; construction industry best practices; related economic impacts of infrastructure investment; and the impact of the current financing environment. NJLECET claimed its members have significant experience in site preparation and underground cable work, and thus a significant interest in the outcome of this proceeding. NJLECET argued it is in a position to measurably and constructively advance this proceeding. Finally, NJLECET asserted its intervention will not cause any delay, and that it will work cooperatively with the other parties to this proceeding.

Ferreira Construction Co., Inc.

On January 20, 2022, Ferreira Construction Co., Inc. (“FCC”) filed a Motion for Leave to Intervene or Participate.

According to its Motion, FCC is a privately held, large-scale, full-service construction company specializing in transportation infrastructure, utility construction, marine work, solar installation, and construction management. FCC claimed it has a substantial interest in this matter because PSE&G will use outside contractors that will need to maintain staff and equipment, and FCC specializes in such large-scale heavy infrastructure projects. FCC argued that there are no other parties with an identical interest in this matter because FCC has particular expertise regarding heavy infrastructure projects unique to FCC. Finally, FCC noted that its inclusion will not cause undue delay because it will coordinate its representation with similarly situated parties and will abide by the schedule set forth for this proceeding. Alternatively, FCC requested that it be permitted to participate in this proceeding pursuant to N.J.A.C. 1:1-16.6.

Burns & McDonnell Engineering Company, Inc.

On January 21, 2022, Burns & McDonnell Engineering Company, Inc. (“BMCD”), filed a Motion to Intervene.

According to its Motion, BMCD is a leading utility design and construction firm providing power, gas, and communication infrastructure throughout North America. BMCD explained it embarked on projects for Southern California Edison, Georgia Power Company, gas distribution modernization for DTE Energy, and others. BMCD emphasized the need for more robust

distribution infrastructure in the gas, electric, and electric vehicle charging sectors across North America. BMcD claimed it has a unique perspective regarding the needs of a successful IAP, and that it is prepared to coordinate its representation with similarly situated parties in this matter.

Engineers Labor-Employer Cooperative

On January 21, 2022, the Engineers Labor-Employer Cooperative (“ELEC”), the Labor Management Fund of the International Union of Operating Engineers Local 828, filed a Motion to Intervene.

According to its Motion, ELEC is a labor-management organization that invests in infrastructure and construction. ELEC explained that it represents over 7,000 operating engineers and 1,000 contractors throughout New Jersey and New York who regularly perform work for private and public entities, including PSE&G. ELEC argued that its members will be substantially, specifically, and directly affected by the outcome of this matter. ELEC claimed its member-contractors and operating engineers will perform the work called for in PSE&G’s petition, thus imparting a direct impact on its members. ELEC also claimed that it has a substantial interest in the IAP’s intricacies and can provide insight into the manpower, cost, and scope requirements of the IAP. Finally, ELEC claimed its interests are not adequately represented by any other party because ELEC can provide insight on the impact of the IAP from the perspective of a contractor and operating engineer. ELEC also claimed that its inclusion will not cause delay or confusion, and it will cooperate with other parties to ensure a decision is made in full view of the relevant facts.

Motions to Participate:

South Jersey Gas Company and Elizabethtown Gas Company

On January 3, 2022, South Jersey Gas Company (“SJG”) and Elizabethtown Gas Company (“ETG”) filed a timely Motion to Participate.

According to its Motion, SJG serves approximately 393,000 New Jersey natural gas customers, and ETG serves approximately 300,000 such customers. SJG and ETG claimed that the IAP will significantly and specifically affect both companies because, like PSE&G, they are natural gas distribution utilities. SJG and ETG claimed their customers and operations are distinct from other parties in this case. Additionally, SJG and ETG stated they have a history coordinating their activities in dockets at the Board with those of other utilities, where appropriate, and will coordinate their representation with other similarly situated parties in this docket. Finally, SJG and ETG claimed their experience in the gas industry allows them to add constructively to this proceeding.

Waters and Bugbee, Inc.

On January 20, 2022, Waters and Bugbee, Inc. (“W&B”) filed a Motion to Participate.

According to its Motion, W&B is a New Jersey Corporation specializing in the installation of utility infrastructure. W&B claimed it has vast experience and can provide the Board with critical insight as to the potential impact the IAP could have on job creation and assessment of construction costs, and it could provide recommendations for the IAP’s efficient implementation. W&B claimed it is substantially affected by this proceeding and its participation will contribute to a complete record for consideration by the Board.

J. Fletcher Creamer & Son, Inc.

On January 21, 2022, J. Fletcher Creamer & Son, Inc. (“JFCS”) filed a Motion to Participate.

JFCS explained that it is a New Jersey-headquartered and nationally recognized contractor for the infrastructure needs of the business community, governmental agencies, and utility companies. JFCS argued that since its prior motion to participate in the Energy Strong I and II programs was granted (as a party of the Creamer-Sanzari Joint Venture), its instant Motion to Participate should be granted for similar reasons. JFCS noted it performed a significant amount of installation work in connection with Energy Strong and the Gas System Modernization Program including the Sewaren Switch project, Hoboken Substation work, Cranford Substation work, and others.

According to JFCS, it seeks participant status because its experience within the utility industry generally, and its prior experience with PSE&G’s infrastructure improvement programs, is evidence that JFCS has substantial interest in the instant IAP. As provided in its Motion, JFCS employs a significant amount of union workers and is in a unique position to provide the Board with critical insight into the creation and retention of jobs in New Jersey. JFCS also argued it has the unique ability to provide an accurate assessment of construction costs associated with the IAP and will aid the Board’s consideration of various IAP components. JFCS stated that its participation in this proceeding will contribute to the development of a complete record, will not cause any undue delay or confusion, and its participation will be coordinated with similarly situated parties. Finally, JFCS acknowledged its motion was seven (7) days late, and claimed its exclusion for that reason alone would result in unfairness and injustice per the provisions of N.J.A.C. 1:1-1.3.

Local Union 94 of the International Brotherhood of Electrical Workers

On January 21, 2022, Local Union 94 of the International Brotherhood of Electrical Workers (“IBEW Local Union 94”) filed a Motion to Participate.

According to its motion, IBEW Local Union 94 represents approximately 2,200 non-management electric distribution and gas distribution employees engaged in all aspects of PSE&G’s operations. IBEW Local Union 94 noted its members are part of PSE&G’s skilled workforce and will work on the proposed IAP in that capacity. Thus, IBEW Local Union 94 stated that it is substantially impacted by the IAP. Additionally, IBEW Local Union 94 claimed there will be no confusion or delay as a result of their inclusion as the IAP is in its preliminary stages.

Motion for Admission Pro Hac Vice

On December 20, 2021, with its Motion to Intervene, NJLEUC moved for admission Pro Hac Vice of Paul F. Forshay, Esq.

NJLEUC provided that Mr. Forshay is a member in good standing of the bar of the District of Columbia. NJLEUC explained that there is good cause for Mr. Forshay’s admission because he has significant experience representing the interests of large end-use customers in utility infrastructure, rate and regulatory proceedings. Additionally, Mr. Forshay has an attorney-client relationship with NJLEUC, and this proceeding involves a complex field of law in which he is a

specialist. As evidenced by his affidavit, Mr. Forshay paid to the New Jersey Lawyers Fund for client Protection the fees required by R. 1:20-1(b).

III. RESPONSES

On January 31, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed its responses to the Motions to Intervene, Motions to Participate, and the Motion for Admission Pro Hac Vice:³

Motions to Intervene

NJLEUC:

Rate Counsel did not object to NJLEUC’s Motion to Intervene.

NJLECET:

Rate Counsel opposed intervention by NJLECET, arguing that its interest and its members participating in construction projects, either undertaken by PSE&G or resulting from infrastructure upgrades, are not interests that are legally protected under N.J.S.A. Title 48. As a result, NJLECET does not have direct interests that would be substantially affected by the outcome of these proceedings. Rate Counsel also noted that NJLECET was denied intervention status in Energy Strong II where Presiding Commissioner President Fiordaliso held that NJLECET’s focus on economic arguments pertaining to the possibility that its members might perform Energy Strong II work did not warrant intervention.⁴

FCC:

Rate Counsel opposed intervention by FCC, arguing that it does not assert a legally protected right under NJSA Title 48 to receive work from PSE&G. Similar to NJLECET, Rate Counsel mentioned that in Energy Strong II, Presiding Commissioner President Fiordaliso denied intervention by FCC, finding that FCC’s pecuniary interests would not add to the proceeding.⁵

BMcD:

Rate Counsel opposed intervention by BMcD, arguing that offering its perspective on construction is not required, nor is its experience unique to that of several of the other movants and to PSE&G engineering staff. As such, Rate Counsel concluded that BMcD interests are not legally protected under N.J.S.A. Title 48.

On February 7, 2022, BMcD replied to Rate Counsel’s comments, arguing that Rate Counsel appears to be in favor of participation, not intervention, by parties who support PSE&G’s petition. BMcD requested that intervention not be limited to parties who oppose IAP and that BMcD can

³ Rate Counsel does not object to the motions filed beyond the time set by the December 15, 2021 Order.

⁴ See In the Matter of the Petition of Public Service Electric and Gas Co. for Approval of the Second Energy Strong Program (Energy Strong II), BPU Docket Nos. EO18060629 and GO18060630, Order dated November 30, 2018, at p. 16.

⁵ Id.

assist in building a complete record as evidenced by their prior Board-approved interventions.⁶ BMcD noted its experience in significant utility and transportation infrastructure projects demonstrates its ability to make a unique contribution to the IAP proceedings.

ELEC:

Rate Counsel objected to ELEC's motion to intervene, stating that while ELEC has an economic interest in participating in PSE&G construction projects, it does not assert a legally protected right under N.J.S.A. Title 48. Rate Counsel argued that ELEC does not have a concrete and current interest that will be "specifically and directly" affected by the outcome of this matter.

Motions to Participate

Rate Counsel had no objection to granting participant status to NJLECET, FCC, BMcD, ELEC, SJG & ETG, W&B, JFCS, and IBEW Local Union 94.

Motion for Admission Pro Hac Vice

Rate Counsel did not object to NJLEUC's Motion for Admission Pro Hac Vice of Paul F. Forshay, Esq.

IV. DISCUSSION AND FINDINGS

Motions to Intervene and/or Participate

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, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

As the Board 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

⁶ See In re Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Electric Vehicle and Energy Storage ("CEF-EVES") Program, BPU Docket No. EO18101111, Order dated April 22, 2020.

Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenors' 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 In the Matter of the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

Timeliness of the Motions

Several of the above-referenced motions were filed beyond the January 14, 2022 bar date established for such motions in the December 15, 2021 Order. While there is no obligation that these out-of-time motions be considered, I **HEREBY FIND** that in the interest of the development of a full and complete record, and under circumstances particular to this matter only, including, but not limited to, the scope of the proceeding, the procedural stage of this matter, the dates on which the motions were filed, and the lack of any objection, that the late-filed motions may be considered in this instance without prejudice to the parties or participants.

Motions to Intervene

NJLEUC:

After consideration of NJLEUC's timely Motion to Intervene, and given the lack of any objections, I **HEREBY FIND** the members of NJLEUC, who represent large and identifiable customer groups of PSE&G, will be directly and substantially affected by the outcome of this proceeding. I **FURTHER FIND**, pursuant to N.J.A.C. 1:1-16.3, that NJLEUC has met the standards for intervention as it has a significant interest in this proceeding, its interest is different from that of any other party, and it will add measurably and constructively to the proceeding without causing delay. I **HEREBY GRANT** the NJLEUC's Motion to Intervene pursuant to the authority granted to me by the Board under the December 15, 2021 Order.

NJLECET:

After consideration of NJLECET's Motion to Intervene, and Rate Counsel's opposition thereto, I am persuaded that NJLECET failed to satisfy the requirements for intervention. N.J.A.C. 1:1-16.3(a) requires, in part, that I consider the nature and extent of NJLECET's interest in the outcome of this case. See N.J.A.C. 1:1-16.3(a)(1). NJLECET is a self-described labor management fund that works to identify new and emerging markets for its members. Its interest in this matter is generally limited to the possibility that its members might participate in future PSE&G construction projects, including those that might result from IAP. As such, I **HEREBY FIND** that the nature of NJLECET's limited interest does not rise to a level that warrants intervention, and thus, I **HEREBY DENY** NJLECET's Motion to Intervene. However, I **HEREBY FIND** that NJLECET is likely to add constructively to the case without causing undue delay or confusion. As such, and in the alternative, I **HEREBY GRANT** participant status to NJLECET, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

FCC:

The arguments advanced by FCC in support of its Motion to Intervene focus on its potential economic interest as a privately held construction company and PSE&G's possible use of outside contractors. As such, I am not persuaded that FCC has an existing substantial interest nor will it

be directly affected by the outcome of this proceeding. Based on the record before me, including Rate Counsel's opposition, and considering the nature of the limited and possibly speculative interests of the movant, I **HEREBY DENY** FCC's Motion to Intervene. However, I **HEREBY FIND** that FCC is likely to add constructively to the case without causing undue delay or confusion. As such, and in the alternative, I **HEREBY GRANT** participant status to FCC, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

BMcD:

After consideration of BMcD's Motion to Intervene, Rate Counsel's comments objecting thereto, and BMcD's reply, I am persuaded that BMcD failed to demonstrate that it will be substantially, specifically, and directly affected by the outcome of this case. I agree with Rate Counsel that BMcD's perspectives on construction are not legally protected under Title 48.⁷ As a utility design and construction firm, BMcD's interest in this proceeding appears to be limited to its possible award of business that could result from the approval of the Petition. I am not persuaded that a theoretical pecuniary interest is sufficient to warrant intervention in this matter. Based on the record before me and the limited nature and scope of movant's interest, I **HEREBY DENY** BMcD's Motion to Intervene. However, I **HEREBY FIND** that BMcD is likely to add constructively to the case without causing undue delay or confusion. As such, and in the alternative, I **HEREBY GRANT** participant status to BMcD, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

ELEC:

ELEC described itself in its Motion as a labor-management organization that promotes economic development and infrastructure investment. The arguments advanced by ELEC in support of its Motion to Intervene provide that its member-contractors and operating engineers will be substantially, specifically, and directly affected by the outcome of the proceeding because they may perform the work called for in the Petition. I disagree. Instead, I agree with Rate Counsel that, although ELEC members could possibly have an economic interest in PSE&G's construction projects, that does not constitute a legally protected right under Title 48 or rise to a level warranting intervention. Considering the limited nature and extent of the movant's interest, I **HEREBY DENY** ELEC's Motion to Intervene. However, I **HEREBY FIND** that ELEC is likely to add constructively to the case without causing undue delay or confusion. As such, and in the alternative, I **HEREBY GRANT** participant status to ELEC, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

Motions to Participate

In reviewing motions to participate, I consider whether the movant's interest in the matter is significant and whether participation is likely to add constructively to the case without causing undue delay or confusion. See N.J.A.C 1:1-16.6.

With regard to the Motions to Participate filed by SJG and ETG, JFCS, and IBEW Local Union 94, and after careful review of the individual facts and circumstances detailed in each motion, I **HEREBY FIND**, that these entities' interest in this proceeding is sufficient to merit participation and that such participation is likely to add constructively to this matter without causing undue

⁷ BMcD's suggestion that intervention is limited to parties who oppose PSE&G's petition is completely without merit and will not be addressed herein.

delay or confusion. Accordingly, and having received no objection, I **HEREBY GRANT** the motions to participate filed on behalf of SJG and ETG, JFCS, and IBEW Local Union 94 limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

W&B

In its Motion, which W&B incorrectly asserted was timely, W&B described itself as a corporation specializing in the installation of utility infrastructure that stands ready to support the construction envisioned in the Petition. W&B claimed it will provide the Board with insight as to the potential impact the IAP could have on job creation, assessment of construction costs, and recommendations for the IAP's efficient implementation. The movant declared that this proceeding will "substantially, significantly and directly affect" W&B, but W&B failed to substantiate in any way this assertion. The Motion similarly failed to adequately identify the nature and scope of W&B's claimed interest. After careful review of the moving papers, I **HEREBY FIND** that W&B failed to demonstrate a significant interest in the outcome of this matter and **FURTHER FIND** that W&B is unlikely to add constructively to this matter. Therefore, I **HEREBY DENY** W&B's motion to participate.

Summary of Intervention and Participation Status

Intervenor Status:

NJLEUC

Participation Status:

NJLECET;

FCC;

BMcD;

ELEC;

SJG and ETG;

JFCS; and

IBEW Local Union 94

Motion for Admission Pro Hac Vice

I reviewed the Motion of NJLEUC, and the supporting affidavit of Mr. Forshay. I agree that this proceeding involves a complex field of law. I am persuaded that Mr. Forshay specializes in this area and has an attorney-client relationship with NJLEUC. Having received no objection to the motion, I **HEREBY FIND** that Mr. Forshay satisfied the conditions for admission pro hac vice, submitted to the Board proof of payment to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2, and therefore, **IS HEREBY ADMITTED** to practice before the Board pro hac vice in this matter provided that he shall:

- (1) Abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- (2) Consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;

- (3) Notify the Board immediately of any matter affecting his/her standing at the bar of any other jurisdiction; and
- (4) Have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

Prehearing Order

I reviewed the proposal for a preliminary schedule, which has been agreed to by Board Staff, Rate Counsel and the Company. I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

PREHEARING ORDER

1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:

Through this proceeding, PSE&G seeks approval of its IAP and an associated cost recovery mechanism pursuant to N.J.A.C. 14:3-2A ("Petition"). The Company proposed a four (4)-year Program with a total investment level of approximately \$848 million. The Program, as proposed by PSE&G, includes the replacement of aging overhead and underground electrical equipment, modernization of electric distribution substation equipment, upgrading of gas metering and regulating stations, and installation of electric vehicle infrastructure to support the Company's transition to an electric fleet. According to the Petition, the IAP is intended to improve last mile reliability while supporting the electrification of the transportation sector and increased use of Distributed Energy Resources

Major Policy Issues:

- Ensure conformance with the IIP regulations codified at N.J.A.C. 14:3-2A
- Ensure maximum benefit to ratepayers
- Ensure compliance with prior Board Orders and Board Policy
- The reasonableness of all construction, construction timelines, and design aspects of the proposed program
- The reasonableness and lawfulness of the proposed cost recovery mechanism
- The reasonableness of the proposed baseline capital spending level

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:

Counsel for PSE&G

Public Service Electric and Gas Company
80 Park Plaza, T5
P.O. Box 570
Newark, New Jersey 07102
Danielle Lopez, Esq
danielle.lopez@pseg.com

Counsel for the Staff of the New Jersey Board of Public Utilities

Department of Law & Public Safety
Division of Law, Public Utilities Section
R.J. Hughes Justice Complex, 7th Floor West
25 Market Street, P.O. Box 112
Trenton, N.J. 08625
Pamela Owen, DAG
Pamela.owen@law.njoag.gov
Matko Ilic, DAG
Matko.ilic@law.njoag.gov

Counsel for Division of Rate Counsel

Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, N.J. 08625
Brian O. Lipman, Esq., Director
blipman@rpa.nj.gov
David Wand, Esq., Managing Attorney
dwand@rpa.nj.gov
Maura Caroselli, Esq.
mcaroselli@rpa.nj.gov

Counsel for NJLEUC

Steven S. Goldenberg, Esq.
Giordano, Halleran and Ciesla, P.C.
125 Half Mile Road
Suite 300
Red Bank, NJ 07701
sgoldenberg@ghclaw.com
Paul F. Forshay
Eversheds Sutherland (US) LLP
700 Sixth Street, NW, Suite 700
Washington, DC 20001-3980
paulforshay@eversheds-sutherland.com

No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, after publication of notice in newspapers of general circulation in PSE&G's service territory, due to the COVID-19 pandemic, public hearings will be held virtually. The dates, times, and virtual information regarding the public hearings are to be determined.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings are tentatively scheduled for the week of August 15, 2022 at a time and location to be determined based upon the availability of the parties and myself.

5. **STIPULATIONS:**

The Staff of the Board of Public Utilities, the Division of Rate Counsel and PSE&G have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

6. **SETTLEMENT**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

The time limits for discovery shall be in accordance with N.J.A.C. 1:1-10.4 or as provided in Exhibit A.

9. **ORDER OF PROOFS:**

PSE&G has the burden of proof. The hearings will be conducted by topic in the following order:

First – PSE&G

Second – Rate Counsel

Third – NJLEUC

Fourth – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES**

PSE&G, Rate Counsel, and NJLEUC's witnesses are yet to be determined. Once determined, additional witnesses may be identified by the parties for the purposes of rebuttal or sur-rebuttal

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness, and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

All pending motions to intervene and/or participate have been addressed.

14. **SPECIAL MATTERS:**

The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

In compliance with the Board's Order in Docket No. EO20030254, I **HEREBY DIRECT** all parties to serve documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order.

I **FURTHER DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED:

3/1/22



MARY-ANNA HOLDEN
COMMISSIONER

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY
FOR APPROVAL OF AN INFRASTRUCTURE ADVANCEMENT PROGRAM (IAP)

DOCKET NOS. EO21111211 AND GO21111212

SERVICE LIST

<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Board Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of Energy</u></p> <p>Paul Lupo, Acting Director paul.lupo@bpu.nj.gov</p> <p>David Brown david.brown@bpu.nj.gov</p> <p>Ryan Moran ryan.moran@bpu.nj.gov</p> <p><u>Counsel's Office</u></p> <p>Abe Silverman, Esq., General Counsel abe.silverman@bpu.nj.gov</p> <p>Carol Artale, Esq., Deputy General Counsel carol.artale@bpu.nj.gov</p> <p>Heather Weisband, Esq. heather.weisband@bpu.nj.gov</p> <p><u>Rate Counsel</u> 140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625-0003</p> <p>Brian O. Lipman, Esq., Director blipman@rpa.nj.gov</p>	<p><u>PSE&G</u> PSEG Services Corporation 80 Park Plaza, T5 Post Office Box 570 Newark, NJ 07102</p> <p>Joseph F. Accardo, Esq. joseph.accardojr@pseg.com</p> <p>Matthew M. Weissman, Esq. matthew.weissman@pseg.com</p> <p>Danielle Lopez, Esq. danielle.lopez@pseg.com</p> <p>Michele Falcao michele.falcao@pseg.com</p> <p>Caitlyn White caitlyn.white@pseg.com</p> <p>Kenneth T. Maloney Cullen and Dykman LLP 1101 14th St., NW Suite 750 Washington, DC 20005 kmaloney@cullenllp.com</p> <p><u>Division of Law</u> NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, ASC, DAG pamela.owen@law.njoag.gov</p> <p>Michael Beck, DAG michael.beck@law.njoag.gov</p>
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<p>T. David Wand, Esq. dwand@rpa.nj.gov</p> <p>Maura Caroselli, Esq. mcaroselli@rpa.nj.gov</p> <p>Brian Weeks, Esq. bweeks@rpa.nj.gov</p> <p>Sarah Steindel, Esq. ssteinde@rpa.nj.gov</p> <p>Kurt Lewandowski, Esq. klewando@rpa.nj.gov</p> <p>Bethany Rocque-Romaine, Esq. bromaine@rpa.nj.gov</p> <p>Robert Glover, Esq. rglover@rpa.nj.gov</p> <p>Megan Lupo, Esq. mlupo@rpa.nj.gov</p> <p>Debora Layugan dlayugan@rpa.nj.gov</p> <p>Karen Forbes kforbes@rpa.nj.gov</p> <p><u>Rate Counsel Consultants</u></p> <p>Andrea Crane The Columbia Group, Inc. 2805 East Oakland Park Boulevard, #401 Fort Lauderdale, FL 3306 ctcolumbia@aol.com</p> <p>Max Chang Synapse Energy Economics, Inc. 485 Massachusetts Ave., Suite 3 Cambridge, MA 02139 mchang@synapse-energy.com</p> <p>Marlon Griffing, Ph.D PCMG and Associates 22 Brookes Drive Gatthersburg, MD 20785 mgriffing@pcmgregcon.com</p>	<p>Matko Ilic, DAG matko.ilic@law.njoag.gov</p> <p>Daren Eppley, DAG daren.eppley@law.njoag.gov</p> <p><u>NJLEUC</u></p> <p>Steven S. Goldenberg Giordano, Halleran & Ciesla, P.C. 125 Half Mile Road, Suite 300 Red Bank, NJ 07701 sgoldenberg@ghclaw.com</p> <p>Paul F. Forshay Eversheds Sutherland (US) LLP 700 Sixth Street, N.W., Suite 700 Washington, D.C. 20001 paulforshay@eversheds-sutherland.com</p> <p><u>South Jersey Gas Company/Elizabethtown Gas Company</u></p> <p>South Jersey Industries, Inc. 520 Green Lane Union, NJ 07083</p> <p>Deborah M. Franco, Esq. dfranco@sjindustries.com</p> <p>Sheree L. Kelly, Esq. skelly@sjindustries.com</p> <p>SJI Utilities, Inc. 1 South Jersey Place Atlantic City, NJ 08401</p> <p>Cindy Capozzoli ccapozzoli@sjindustries.com</p> <p>Carolyn A. Jacobs cjacobs@sjindustries.com</p> <p><u>NJLECET</u></p> <p>Bradley M. Parsons, Esq. Kroll Heineman Ptasiewicz & Parsons, LLC Metro Corporate Campus One 99 Wood Avenue South, Suite 307 Iselin, New Jersey 08830 bparsons@krollfirm.com</p>
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Ezra Hausman, Ph.D
Ezra Hausman Consulting
77 Kaposia Street
Newton, MA 02466
ezra@ezrahausman.com

Acadian Consulting Group
5800 One Perkins Drive
Bldg. 5, Suite F
Baton Rouge, LA 70808

David Dismukes, Ph. D
daviddismukes@acadianconsulting.com

Michael Deupree
michaeldeupree@acadianconsulting.com

Taylor Deshotels
taylorshotels@acadianconsulting.com

Emily Mouch
emilymouch@acadianconsulting.com

Rod Walker & Associates Consultancy
201 Cherokee Blvd., Suite 101
Chattanooga, TN 37405

Rod Walker
walker@rwalkerconsultancy.com

Jeremy Walker
jwalker@rwalkerconsultancy.com

ELEC

Elizabeth K. Schlax, Esq.
Susanin, Widman & Brennan, PC
1001 Old Cassatt Road, Suite 306
Berwyn, PA 19312
eschlax@swbcounselors.com

BMcD

James H. Laskey
Norris McLaughlin, P.A.
400 Crossing Blvd, 8th Floor
Bridgewater, NJ 08807
jlasky@norris-law.com

IBEW Local Union 94
IBEW Local Union 94
299 Ward Street
East Windsor, NJ 08520

Scott Campbell
scott@ibew94.org

Paul A. Montalbano, Esq.
Cohen, Leder, Montalbano & Connaughton, LLC
669 River Drive, Suite 125
Elmwood Park, NJ 07407
montalbanoemail@yahoo.com

JFCS

50 West State Street, Suite 1104
Trenton, NJ 08608

Michael D. DeLoreto, Esq.
mdeloreto@gibbonslaw.com

Kevin G. Walsh, Esq.
kwalsh@gibbonslaw.com

Courtney A. Johnson, Esq.
cjohnson@gibbonslaw.com

FCC

Louis A. Modugno
Triff & Modugno LLC
89 Headquarters Plaza, North Tower, Suite
1201
Morristown, NJ 07960
lmodugno@tm-firm.com

W&B

Jeff Waters, President
Waters & Bugbee, Inc.
75 South Gold Drive
Hamilton, NJ 08691
jwaters@watersandbugbee.com

John D. Cromie, Esq.
Connell Foley LLP
56 Livingston Ave
Roseland, NJ 07068
jcromie@connellfoley.com

EXHIBIT A

**In the Matter of the Petition of Public Service Electric and Gas Company for
Approval of an Infrastructure Advancement Program (IAP)
BPU Docket Nos. EO21111211 and GO21111212**

Procedural Schedule

Motions to Intervene/Participate	January 14, 2022
First Round Discovery Requests+	February 14, 2022
First Round Discovery Answers	March 1, 2022
Second Round Discovery Requests	March 14, 2022
Second Round Discovery Answers	March 29, 2022
Discovery/Settlement Conference(s)	Week of April 11, 2022
Third Round Discovery Requests	April 11, 2022
Third Round Discovery Answers	April 26, 2022
Settlement Conference(s)	Week of May 2, 2022
Settlement Conference(s) (if necessary)	Week of May 9, 2022
Public Hearings	TBD
Rate Counsel/Intervener Testimony	May 20, 2022
Discovery on Rate Counsel/Intervener Testimony	June 3, 2022
Responses to Discovery on Rate Counsel/Intervener Testimony	June 17, 2022
Settlement Conference(s) (if necessary)	Week of June 20, 2022
Rebuttal Testimony	July 1, 2022
Discovery on Rebuttal Testimony	July 15, 2022
Responses to Discovery on Rebuttal Testimony	July 29, 2022
Evidentiary Hearings with oral surrebuttal++	Week of August 15, 2022
Initial and Reply Briefs	TBD by Commissioner after evidentiary hearings

+ Petitioner agrees that discovery is ongoing and will endeavor to answer all discovery within fifteen days of service or earlier if possible.

++Subject to Commissioner's availability.