



STATE OF NEW JERSEY
Board of Public Utilities
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DIVISION OF ENERGY AND
OFFICE OF CLEAN ENERGY

IN THE MATTER OF ENERGY EFFICIENCY)	ORDER GRANTING
PROGRAMS AND ASSOCIATED COST RECOVERY)	INTERVENTION AND
MECHANISM PROCEEDINGS)	ADMISSION PRO HAC VICE
)	DOCKET NO. EO09010056
IN THE MATTER NEW JERSEY NATURAL GAS)	
COMPANY FOR APPROVAL OF ENERGY EFFICIENCY)	
PROGRAMS WITH AN ASSOCIATED COST)	DOCKET NO. GO09010057
RECOVERY MECHANISM)	
IN THE MATTER OF THE PETITION OF PUBLIC)	
SERVICE ELECTRIC AND GAS COMPANY)	
OFFERING AN ECONOMIC ENERGY EFFICIENCY)	
STIMULUS PROGRAM IN ITS SERVICE TERRITORY)	DOCKET NO. EO09010058
ON A REGULATED BASIS AND FOR ASSOCIATED)	
COST RECOVERY MECHANISM PURSUANT TO)	
N.J.S.A. 48:3-98.1)	
IN THE MATTER OF THE PETITION OF SOUTH)	
JERSEY GAS COMPANY FOR APPROVAL OF AN)	
ENERGY EFFICIENCY PROGRAM ("EEP") WITH AN)	
ASSOCIATED ENERGY TRACKER ("EET"))	DOCKET NO. GO09010059
PURSUANT TO N.J.S.A. 48:3-98.1; AND TO MODIFY)	
RATE SCHEDULE EGS-LV)	
IN THE MATTER OF THE PETITION OF PIVOTAL)	
HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS FOR)	
APPROVAL OF ENERGY EFFICIENCY PROGRAMS)	DOCKET NO. GO09010060
AND A REGIONAL GREENHOUSE GAS INITIATIVE)	
COST RECOVERY RIDER)	

IN THE MATTER OF THE VERIFIED PETITION OF ROCKLAND ELECTRIC COMPANY FOR APPROVAL OF AN ECONOMIC STIMULUS PROGRAM AND ASSOCIATED RATE RECOVERY))))	DOCKET NO. EO09010061
IN THE MATTER OF THE VERIFIED PETITION OF JERSEY CENTRAL POWER & LIGHT COMPANY FOR AN ECONOMIC STIMULUS DEMAND RESPONSE AND ENERGY EFFICIENCY PROGRAM AND ASSOCIATED COST RECOVERY MECHANISM)))))	DOCKET NO. EO09010062
IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF AN ENERGY EFFICIENCY STIMULUS PROGRAM AND APPROVAL OF AN ASSOCIATED COST RECOVERY MECHANISM AND BILL STABILIZATION ADJUSTMENT, PURSUANT TO N.J.S.A. 48:3-98.1))))))	DOCKET NO. EO09010063

(SERVICE LIST ATTACHED)

BY PRESIDENT JEANNE M. FOX:

In response to Governor Corzine's call to electric and gas utilities to assist in promoting a broad economic recovery in the State while reducing energy consumption and greenhouse gas production, the Board has encouraged the State's utilities to formulate plans for enhanced investments in energy efficiency programs. Each of the electric and gas utilities has now filed such a plan with the Board.

By Order dated February 19, 2009, the Board determined that the above matters should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated me as the presiding officer who is authorized to rule on all motions that arise during the proceeding and modify any schedule that may be set as necessary to secure just and expeditious determination of the issues.

By Order dated February 25, 2009, I adopted a procedural schedule for New Jersey Natural Gas, Public Service Electric & Gas, South Jersey Gas, and Elizabethtown Gas. For those companies, the schedule calls for completion of discovery during the week of April 27, 2009, and anticipates Board action on June 9, 2009. Schedules are still under discussion for the remaining electric utilities.

The Utility Filings

New Jersey Natural Gas Company

On January 19, 2009, pursuant to N.J.S.A. 48:3-98.1, New Jersey Natural Gas Company ("NJNG") filed a petition requesting approval to implement three energy efficiency programs: 1) Home Performance with Energy Star Enhancements; 2) Enhanced Warm Advantage Rebate Program; and 3) Commercial Customer Direct Install Program. According to the petition, NJNG designed these programs to complement or supplement existing New Jersey Clean Energy Program ("NJCEP") offers as enhancements of such programs as the ongoing WarmAdvantage, COOLAdvantage, Home Performance with Energy Star ("HPES"), Commercial Direct Install and Smart Start Building programs. NJNG's programs are intended to increase customer awareness, enhance participation and support utilization of NJCEP efforts throughout the state, promoting a "Whole Building" approach to energy efficiency measures.

NJNG estimates that it will incur approximately \$22,894,000 in additional expenditures, and is proposing to recover all costs through the establishment of an Energy Efficiency Rider that will be collected from all jurisdictional throughput on NJNG's system on an annual basis. NJNG is requesting recovery of the costs associated with the rebates and customer incentive payments over 4 years, with deferred accounting treatment of Energy Efficiency Program costs and authority to calculate carrying costs associated with the investment related to these costs based upon the weighted average cost of capital ("WACC") including income taxes.

Public Service Electric and Gas Company

On January 21, 2009, Public Service Electric and Gas Company ("PSE&G") submitted a proposal for eight (8) energy efficiency sub-programs that will result in expenditures of approximately \$190 million. This proposal was supplemented on February 4, 2009. PSE&G states that these sub-programs were selected while taking into consideration various factors such as potential for job creation, energy savings, and potential to complement the NJCEP. PSE&G proposes cost recovery through two new Energy Efficiency Economic ("EEE") Stimulus subcomponents of the its electric and gas Regional Greenhouse Gas Initiative Act ("RGGI Recovery Charge" or "RRC".) PSE&G is requesting that the carrying charge on its deferred balances for these programs be set based upon its monthly WACC, together with income tax effects and that the WACC be set to reflect current capital market conditions. PSE&G believes that elements of the WACC approved by the Board in the NJNG rate case are reflective of the increased cost of capital.

South Jersey Gas Company

On January 23, 2009, South Jersey Gas Company ("SJG") filed a petition requesting authorization to implement five Energy Efficiency programs ("EEP") on an expedited basis in the second quarter of 2009. The five programs include an Enhanced Residential HVAC Rebate Program, the Residential Home Performance Finance and Energy Improvement Plan, the Commercial Customer Direct Install Financing Program, the Combined Heat and Power and Distributed Generation Technology Programs.

SJG asserts that the EEPs are geared toward encouraging customers to reduce their overall energy usage as well as toward creating additional jobs in the energy efficiency market. SJG proposes to target in these EEPs the residential as well as the Commercial and Industrial (C&I) segments. SJG seeks authority to spend approximately \$17,118,275 with recovery of all revenue requirements associated with the EEP through an Energy Efficiency Tracker ("EET"), which would consist of two parts. One part would earn a return on the EEP costs and recover the amortization of the regulatory asset ("RA") to be created upon SJG's balance sheet. The other part of the EET would recover incremental operating and maintenance ("O&M") expenses associated with the EEP. SJG is also requesting that the return on its RA be set equal to the WACC utilized in the Company's most recent base rate case. SJG requests that the Board retain jurisdiction of this matter and not transfer the matter to the Office of Administrative Law, to assure expedition.

Elizabethtown Gas Company

On February 5, 2009, pursuant to N.J.S.A. 48:3-98.1, Elizabethtown Gas Company ("ETG") filed a petition requesting approval to implement six (6) Initial Energy Efficiency Programs for a two year period and two Base Energy Efficiency Programs that will be implemented on a longer term basis. According to the petition, ETG's Energy Efficiency Programs are designed to complement or supplement the offers contained in the existing NJCEP offers and include a Whole House EE Program, a Residential Expanded Gas Heating Ventilation and Air Conditioning ("HVAC") and Gas Hot Water Heater Incentive Program, a Small Commercial Customer Energy Efficiency Program, a Large Commercial Customer Energy Efficiency Program, a Combined Heat and Power Program and a Gas Cooling Program. They are intended to increase customer awareness, enhance participation and support utilization of the NJCEP while creating additional jobs in the energy efficiency market. The estimated cost for the two year period is approximately \$10,506,000 for Initial Energy Efficiency Programs and \$4,168,000 for Base Energy Efficiency Programs. ETG proposes recovering these costs through the implementation of a new N.J.S.A. 48:3-98.1(b) Rider to be effective as of April 1, 2009. Specifically, ETG proposes to amortize the regulatory assets from the EE programs over five years utilizing the after tax return on capital, grossed up for the revenue expansion factor most recently established by the Board, unless the Board establishes a new pre-tax return on capital in the Company's expected March 1, 2009 base rate case filing.

Jersey Central Power & Light Company

On February 20, 2009, Jersey Central Power & Light Company ("JCP&L" or "the Company") submitted a petition for approval to administer four demand response and two energy efficiency programs in response to Governor Corzine's Economic Stimulus Plan and for approval of an associated cost recovery mechanism. According to the petition, these programs should be considered, to the extent relevant, as assisting in the achievement of the demand response and energy efficiency targets set forth in New Jersey's Energy Master Plan and in the Board's Order dated January 28, 2009 in Docket Number EO08121065. The petition describes a program consisting of two parts. There are four demand response programs previously filed in response to the Board's Order dated July 1, 2008 in Docket Numbers EO08150326 and EO08060421 ("July 1 Order"). In addition, there are two energy efficiency programs, a "whole house approach" program targeted at residential energy efficiency customers and a "whole building" program targeted at non-residential customers. JCP&L estimates total project expenditures

during the first year of implementation of approximately \$47 million.

Atlantic City Electric Company

On February 23, 2009, Atlantic City Electric Company ("ACE" or the "Company") submitted a petition for approval of an Energy Efficiency Stimulus Program ("EESP") in response to Governor Corzine's Economic Stimulus Plan and for approval of an associated cost recovery mechanism. The EESP consists of six sub-programs: Enhanced Residential HVAC Rebate, Repayment Plan, Whole House Program, Energy Efficiency Investments, Building Commissioning and Operations and Maintenance Program, and the Small Commercial Direct Install Program. Three of the programs target the residential customer sector and three the non-residential sector. The Company proposes recovering the revenue requirements associated with the EESP by implementing a component of a charge pursuant to the Regional Greenhouse Gas Initiative Act ("RGGI Recovery Charge" or "RRC") and a Bill Stabilization Adjustment ("BSA"). As envisioned by the Petition, the EESP component of the RRC would be calculated to produce a rate of return based on the Company's current cost of capital. The EESP charge would be subject to deferred accounting and interest on any balances would be calculated monthly based on the Company's current short-term debt rate. According to the petition, the BSA is intended to provide the Company with the same level of revenue it would have without the potential decrease caused by the implementation of the EESP.

Rockland Electric Company

On February 20, 2009, Rockland Electric Company ("RECO" or "the Company") filed a petition requesting approval of an Energy Efficiency Stimulus Program ("EESP") and associated rate recovery. The EESP consists of four small scale and pilot programs which include: the provision of direct installation services and rebate incentives; the provision of on-line software for "do-it-yourself" home energy audits; a market potential survey to determine the baseline efficiency of the Company's service territory; and the implementation of a Universal Service Fund energy efficiency audit and direct installation program. The EESP targets residential and low-income customers. The Company states that these programs are the outgrowth of program proposals made in a petition for approval of an energy efficiency pilot program filed with the Board on August 28, 2008, in Docket Number EO08090702. The Company estimates total costs for the three-year EESP at \$2, 346,000. RECO proposes recovering the costs of the program through calculating a revenue requirement for the EESP which would be collected through a surcharge on all distribution customers pursuant to the Regional Greenhouse Gas Initiative Act ("RGGI Surcharge"). The revenue requirement would include all costs associated with the EESP and would be calculated monthly and adjusted to reflect any prior period over- or under-recoveries. Net investment in the program would receive an overall after-tax rate of return of 8.18%, reflecting the Company's most recently approved Weighted Average Cost of Capital ("WAAC") except that the Company adds seventy-five basis points to the return on equity used in calculating the WAAC. The RGGI Surcharge would be set annually, based on the forecasted revenue requirement.

The Motion to Intervene and for Admission pro hac vice

By letter dated March 27, 2009, Richard Webster, Esq., filed a motion to intervene in these proceedings on behalf of the Natural Resources Defense Council ("NRDC"). According to the motion, NRDC is a national environmental organization interested in promoting the extensive use of cost effective energy efficiency and removing any regulatory disincentives to its use in New Jersey. NRDC alleges that its membership includes citizens of New Jersey and residents of each utility's service area who will participate in the electricity market shaped by the energy efficiency filings. The organization further maintains that it has a long-standing interest in environmental issues in New Jersey, particularly with respect to energy policy and the development of energy efficiency service. NRDC also states that it has a longstanding interest in seeing that funds collected to support energy efficiency are spent in the most effective way possible.

NRDC acknowledges that its motion is out of time and agrees to comply with the discovery schedule set by the Board in its Order of February 25, 2009 in this docket, and maintains that its participation as an intervenor will not create confusion or cause delay in the completion of these proceedings.

Mr. Webster has also moved pursuant to N.J.A.C. 1:1-5.5 for the admission *pro hac vice* of Luis G. Martinez, Esq., a staff attorney of NRDC and a member in good standing of the bar of New York.¹ Mr. Martinez filed an affidavit subsequent to the motion for admission asserting that there is good cause for his admission since he is a specialist in the field of utility regulatory law and energy efficiency and that he agrees to have all pleadings, briefs and other papers to be filed with the Board signed by New Jersey counsel. The affidavit also indicates that Mr. Martinez has satisfied all of the conditions for admission as set forth in R. 1:21-2(a), and that the fees required by R. 1:20-1(b) and 1:28-2 have been paid to the Disciplinary Oversight Committee and the New Jersey Lawyers' Fund for Client Protection.

Mr. Webster has filed a certification pursuant to R. 4-4 regarding the facsimile signature on the certification of Mr. Martinez, stating that Mr. Martinez has acknowledged the genuineness of the signature and that Mr. Webster will file the certification with original signature if requested to do so by the Board.

Responses to the Motion

By letter dated April 9, 2009, PSE&G objected to NRDC's motion, on the grounds that in PSE&G's judgment, NRDC appeared to be interested in pursuing decoupling in the proceeding. PSE&G states that pursuit of this issue would be beyond the scope of the current proceeding, that the necessary information for its exploration has not been developed, and that its addition at this point would unduly delay this expedited proceeding by requiring additional discovery in order to develop a record. The company referenced the call by Governor Corzine for gas and electric utilities to assist in a broad economic recovery and the creation of "green-collar" jobs, as well as the schedule adopted by the undersigned in this matter. PSE&G did not object to a

¹ The correct citation for this motion is N.J.A.C. 1:1-5.2. Pursuant to N.J.A.C. 1:1-1.3 and 14:1-1.2, the Board will construe the motion as having correctly cited the relevant authority in order to achieve a just and expeditious determination of the issues presented.

grant of participant status, provided participation was limited to “existing issues currently under review in this matter.”

By letter dated April 9, 2009, NJNG stated that it did not object to NRDC’s motion as long as NRDC provided a guarantee that there would be no delay or confusion produced by its intervention.

By letter dated April 9, 2009, JCP&L objected to NRDC’s motion on the grounds that the motion was untimely and that NRDC’s stated interest in issues related to financial disincentives for utilities to pursue energy efficiency measures would cause undue delay and render adherence to the schedule adopted in this matter almost impossible. JCP&L did not object to participant status for NRDC.

By letter dated April 9, 2009, South Jersey Gas stated that it did not object to granting intervener status to NRDC as long as the procedural schedule was unaffected.

By letter dated April 15, 2009, ACE stated that it did not object to NRDC’s motion in connection with the company’s utility-specific energy efficiency filing.

On April 16, 2009, Rate Counsel submitted letters stating that it did not object to NRDC’s motion to intervene in these matters but that the movant’s intervention should be conditioned upon limiting the issues raised to those presented by the companies’ filings. Rate Counsel notes that these filings are made pursuant to the RGGI statute, which provides for expedited review by the Board, and states that if NRDC were to explore the full range of issues raised in its motion, the statute’s intent that review be expedited would be frustrated.

FINDINGS and DISCUSSION

Pursuant to N.J.A.C. 1:1-16.3(a), to determine if a motion to intervene should be granted, the Board considers the nature and extent of the party’s interest in the outcome of the investigation, and whether the party’s interest is sufficiently different from that of other parties; whether inclusion will add constructively to the case; and whether intervention will confuse or delay the matter. If this standard is not met, the Administrative Code provides for a more limited type of involvement 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. N.J.A.C. 1:1-16.6.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for the development of a 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 proceedings by requiring that an intervener’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, 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 – Order on Motions for Intervention and Participation, Dkt. Nos. EO08080543 and EO07110881.

I have considered the representations in NRDC's motion and those in the responses of the other parties. I note the concerns raised by the parties regarding the ability to explore in a timely fashion the issues identified by the movant with respect to the financial disincentives for the support of energy efficiency measures by utilities. Several parties have referenced the schedule adopted for this proceeding; Rate Counsel has asserted that the timeframes established pursuant to the N.J.S.A. 48:3-98.1 do not permit exploration of such issues within the review of the current petitions.

NRDC acknowledges that its motion is out of time. NRDC states that, in addition to substantial experience in this area, it has the resources and experience to ensure that a grant of intervenor status will not result in confusion or delay. In addition, I note that NRDC will be bound by the schedule which has been adopted for these proceedings. Therefore, I will rely on those representations, and do not believe that granting the motion to intervene will result in undue delay or confusion.

Based on my review of the motion to intervene of NRDC, and the responses of the parties, and after balancing the need to develop a complete record with the need for prompt review necessitated by the statute, I HEREBY GRANT the motion, provided that NRDC complies with the schedule adopted for these proceedings on February 25, 2009 and commits to working cooperatively, to the fullest extent possible, with the other parties.

Based on review of the motion for admission *pro hac vice* of Mr. Martinez, and the supporting certifications, and no objections having been received, I FIND that Mr. Martinez has satisfied the conditions for admission, and therefore, HEREBY GRANT the motion for admission to practice before the Board for this proceeding only, provided that he shall:

- 1) abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- 2) submit proof of payment of the fees required by R.1:20-1(b) and 1:28-2;
- 3) 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 him that may arise out of his participation in this matter;
- 4) notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
- 5) have all pleadings, briefs and other papers filed with the Board signed by the 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 attorney admitted by this Order.

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

DATED:

4/28/09

BY:


JEANNE M. FOX
PRESIDENT

I/M/O ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST
RECOVERY MECHANISM PROCEEDINGS
BPU DOCKET NO. EO09010056

and

I/M/O THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL
OF AN ENERGY EFFICIENCY STIMULUS PROGRAM AND APPROVAL OF AN
ASSOCIATED COST RECOVERY MECHANISM AND BILL STABILIZATION
ADJUSTMENT PURSUANT TO N.J.S.A. 48:3-98.1
BPU DOCKET NO. EO09010063

I/M/O THE PETITION OF PIVOTAL 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

I/M/O THE PETITION OF JERSEY CENTRAL POWER & LIGHT COMPANY
CONCERNING A PROPOSAL FOR ECONOMIC STIMULUS DEMAND RESPONSE AND
ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST RECOVERY MECHANISM
BPU DOCKET NO. EO09010062

I/M/O THE PETITION OF NEW JERSEY NATURAL GAS COMPANY FOR APPROVAL
OF ENERGY EFFICIENCY PROGRAMS WITH AN ASSOCIATED COST RECOVERY
MECHANISM
BPU DOCKET NO. GO09010057

I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY
OFFERING AN ECONOMIC ENERGY EFFICIENCY STIMULUS PROGRAM IN ITS
SERVICE TERRITORY ON A REGULATED BASIS AND FOR ASSOCIATED COST
RECOVERY MECHANISM PURSUANT TO N.J.S.A. 48:3-98.1
BPU DOCKET NO. GO09010058

I/M/O THE PETITION OF ROCKLAND ELECTRIC COMPANY FOR APPROVAL OF
AN ENERGY EFFICIENCY STIMULUS PROGRAM AND ASSOCIATED RATE
RECOVERY
BPU DOCKET NO. EO09010061

I/M/O THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL OF AN
ENERGY EFFICIENCY PROGRAM WITH AN ASSOCIATED ENERGY EFFICIENCY
TRACKER PURSUANT TO N.J.S.A. 48:3-98.1 AND TO MODIFY RATE
SCHEDULE EGS-LV
BPU DOCKET NO. GO09010059

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