



DIVISION OF ENERGY

DECISION AND ORDER
APPROVING MODIFICATION
TO MARCH 24, 2008
STIPULATION

DOCKET NO. EO07040278

BY THE BOARD:

By this Decision and Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the March 10, 2009 Stipulation executed by Public Service Electric and Gas Company (“PSE&G” or “Company”), the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”), Board Staff, New Jersey Natural Gas (“NJNG”), and the Mid Atlantic Solar Energy Industries Association (“MSEIA”), by which the parties to the Stipulation agreed to modify the March 24, 2008 Settlement (“PSE&G Solar Loan Program Settlement”) approved by the Board on April 16, 2008¹ by removing the requirement that PSE&G obtain a first-priority lien on the solar project equipment, requiring only that PSE&G continue to obtain a security interest in the equipment and any associated agreements, subject to Board approval.

BACKGROUND AND PROCEDURAL HISTORY

On April 19, 2007, PSE&G filed with the Board a petition and exhibits requesting Board approval to implement a 30 MW solar photovoltaic (PV) development program (the “Program”) within its electric service territory across all customer classes, with segments for residential, residential low-income, municipal/public entities, and commercial/industrial and not-for-profit customers.

After extensive discovery and settlement meetings, the PSE&G Solar Loan Program Settlement was executed by the Company, Board Staff, Rate Counsel, MSEIA, NJNG, and South Jersey Gas Company ("SJG").²

¹ I/M/O the Petition of Public Service Electric and Gas Company for Approval of a Solar Energy Program and Associated Cost Recovery Mechanism. BPU Docket No. EO07040278. Order dated April 16, 2008.

² Jersey Central Power and Light Company ("JCP&L"), Rockland Electric Company ("RECO"), and Retail Energy Supply Association ("RESA") submitted letters to the Board taking no position in support or opposition of the Settlement. The New Jersey Large Energy

On April 16, 2008, the Board issued an Order adopting the PSE&G Solar Loan Program Settlement and approving the Program as a pilot for a period of 2 years. PSE&G has implemented the Program pursuant to that Order and, according to the Company, has received a robust response, especially in the commercial and industrial sector.

Subsequently, on November 7, 2008, the Board issued an Order approving an auction process associated with disposition of Solar Renewable Energy Credits ("SRECs") associated with the loan program.

On January 15, 2009, PSE&G filed a letter with the Board requesting approval to modify various program requirements. The Company asserts that many interested and otherwise qualified applicants will be able to participate in the Program if certain modifications are made to the terms of the PSE&G Solar Loan Program Settlement. In addition, PSE&G states that the modifications will allow more prompt closing of the loans.

STIPULATION

On March 10, 2009, a stipulation (the "Stipulation") was executed by PSE&G, Rate Counsel, Board Staff, NJNG, and MSEIA which removed the requirement that PSE&G obtain a first-priority lien but required PSE&G to continue to obtain a security interest in the solar project equipment and associated agreements for loans issued in the Program. No agreement has been reached on the remaining requests at this time.

The Stipulation provides:

- 1.1 The requirement that PSE&G obtain a first priority lien on the solar project equipment shall no longer apply. However, PSE&G shall obtain a security interest in the solar project equipment for loans issued in the Program.

The Stipulation also includes the certification of Alfred Z. Matos, PSE&G Vice President of Renewables and Energy Solutions which supports the requested modification. According to the certification, PSE&G has had discussion with applicants, potential applicants, and solar installers and developers concerning the requirement that the Company obtain a first priority lien on the solar project equipment. According to Mr. Matos, PSE&G has been informed by mortgage and home equity lenders that the terms of such mortgages and home equity loans prevent another entity from obtaining a first priority lien on solar equipment that is attached to the home. Additionally, the Company has been unable to get any banks or other financial institutions to execute a subordination agreement to modify the terms of such mortgages and home equity loans so as to allow PSE&G to obtain a first priority lien on the solar project equipment. PSE&G has stated that with respect to commercial and industrial solar projects, the Company has met with resistance from other lenders to allow PSE&G to obtain a first priority lien on the solar project equipment. In addition, Mr. Matos states that PSE&G has been informed by solar installers and developers that the first priority lien requirement has been an obstacle to attracting potential customers to participate in the Program. For the foregoing reasons, PSE&G states that removal of the first lien requirement will allow additional projects to qualify for the Program.

DISCUSSION AND FINDINGS

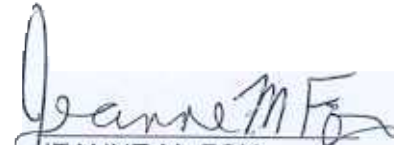
The Board has carefully reviewed the record in this matter, including the Stipulation and the certification. As discussed below, the Board **FINDS** that the Stipulation represents a fair and reasonable resolution of this matter and is in the public interest.

In its April 16, 2008 Order approving the PSE&G Solar Loan Program Settlement, the Board found that the Program would further the State's and the Board's goals and commitment to foster clean, renewable energy in the State. (Order at 19). Accordingly, the Board **FURTHER FINDS** that this modification will allow for greater participation in the Program, and furtherance of both State and Board goals..

Therefore, the Board **HEREBY ADOPTS** the attached Stipulation in its entirety and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein.


DATED: 3/17/09


BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

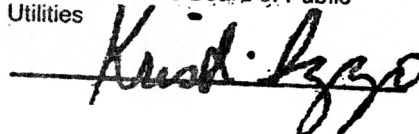

NICHOLAS ASSELTA
COMMISSIONER


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



Gregory Eisenstark
Assistant General Corporate Rate Counsel

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March 10, 2009

In The Matter Of The Petition Of
Public Service Electric And Gas Company
For Approval Of A Solar Energy Program And An
Associated Cost Recovery Mechanism

BPU Docket No. EO07040278

VIA ELECTRONIC MAIL & REGULAR MAIL

Kristi Izzo, Secretary
Office of the Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Dear Secretary Izzo:

Enclosed for filing is an executed Stipulation on Program Modifications in the above-referenced matter. An original and ten copies are enclosed.

PSE&G understands that this matter will be considered as a "Late Starter" at the Board's March 12, 2009 agenda meeting.

Respectfully submitted,
Original Signed by
Gregory Eisenstark

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SOLAR ENERGY PROGRAM
BPU DOCKET NO. EO07040278**

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SOLAR ENERGY PROGRAM
BPU DOCKET NO. EO07040278**

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF
PUBLIC SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF A SOLAR
ENERGY PROGRAM AND AN ASSOCIATED
COST RECOVERY MECHANISM

) STIPULATION ON
) PROGRAM
) MODIFICATIONS

BPU Docket No. EO07040278

By a Decision and Order Approving Settlement dated April 16, 2008 ("April 16 Order"; "Settlement"), the Board of Public Utilities ("Board" or "BPU") approved Public Service Electric and Gas Company's ("PSE&G" or "Company") request to implement a solar energy program ("Program") and associated cost recovery mechanism.

PSE&G has implemented the Program pursuant to the April 16 Order. The Company asserts that it has received a robust number of applications, particularly in the Commercial and Industrial segment, which is nearly fully subscribed with approved applications.

The Company states that, because of the innovative nature of the Program, certain post-approval implementation issues have arisen. These issues impact certain terms and conditions under which PSE&G issues loans. Due to the specificity of the Program terms and rules, as set forth in the April 16 Order and the Settlement, the Company finds that it has, in some circumstances, lacked the flexibility necessary to administer the Program. As a result, many interested prospective applicants have not been able to participate in the Program. By letter dated January 15, 2009, PSE&G filed a letter with the Board requesting approval to implement three program modifications: (1) the requirement that projects be net metered; (2) a shift of capacity to the C&I segment prior to the expiration of the "hard caps" on April 17, 2009 as specified in the Board-approved Settlement Agreement; and (3) a relaxation of the 25% customer cap within the C&I segment.

In addition, PSE&G states that it has encountered certain issues that have delayed the closing of loans under the Program, even after nearly all of the Program requirements have been satisfied. PSE&G also states that it has encountered resistance from financial institutions, solar developers, and potential applicants concerning the current requirement that PSE&G obtain a first priority lien on the solar project equipment. Please refer to the Certification of Alfredo Z. Matos attached hereto for additional information concerning the first priority lien issue.

Therefore, the Company has consulted with the parties to the Settlement concerning proposed changes to the Program. As a result of these discussions and negotiations, the undersigned parties ("Parties") have agreed to modify certain terms of the Settlement via this Stipulation on Program Modifications ("Stipulation"). The other issues identified in the Company's January 15, 2009 letter request will not be addressed in this Stipulation, but will remain pending with the Board, subject to further discussions.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

The requirement that PSE&G obtain a first-priority lien on the solar project equipment shall no longer apply. However, PSE&G shall obtain a security interest in the solar project equipment for loans issued in the Program.

2 The Parties agree that this Stipulation shall be filed with the BPU for review and approval.


3 The Parties agree that this Stipulation is being entered into exclusively for the purpose of resolving the issues set forth herein.

4 The Parties agree that this Stipulation was negotiated and agreed to in its entirety with each section being mutually dependent on approval of all other sections.

Therefore, if the Board modifies any of the terms of this Stipulation, each Party is given the option, before implementation of any different terms in this matter, to accept the change or to resume negotiations on the issues set forth herein as if no Stipulation had been reached.

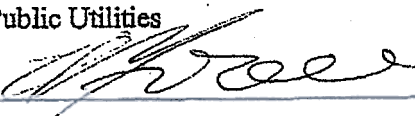
5. The Parties hereby agree that this Stipulation has been made exclusively for the purpose of this proceeding and that this Stipulation, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

By: 
Gregory Eisenstark
Assistant General Corporate Rate Counsel

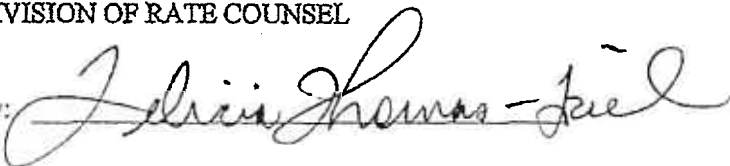
DATED: 3-10-09

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the
Board of Public Utilities

By: 
Alex Moreau
Deputy Attorney General

DATED: 03/10/09

RONALD K. CHEN
PUBLIC ADVOCATE OF NEW JERSEY
STEFANIE A. BRAND, DIRECTOR
DIVISION OF RATE COUNSEL

By: 

Deputy Public Advocate

DATED: March 10, 2009

MID-ATLANTIC SOLAR ENERGY INDUSTRIES ASSOCIATION

By: _____

DATED: _____

SOUTH JERSEY GAS COMPANY

By: _____

DATED: _____

NEW JERSEY NATURAL GAS COMPANY

By: _____

DATED: _____

MID-ATLANTIC SOLAR ENERGY INDUSTRIES ASSOCIATION

By:

DATED:


3/9/08

SOUTH JERSEY GAS COMPANY

DATED: _____

NEW JERSEY NATURAL GAS COMPANY

DATED: _____

MID-ATLANTIC SOLAR ENERGY INDUSTRIES ASSOCIATION

By: _____

DATED: _____

SOUTH JERSEY GAS COMPANY

By: _____

DATED: _____

NEW JERSEY NATURAL GAS COMPANY

By: *[Signature]*

DATED: March 6, 2009

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PETITION OF)
PUBLIC SERVICE ELECTRIC AND GAS)
COMPANY FOR APPROVAL OF A SOLAR
ENERGY PROGRAM AND AN ASSOCIATED)
COST RECOVERY MECHANISM**

BPU Docket No. EO07040278

CERTIFICATION

STATE OF NEW JERSEY)

COUNTY OF ESSEX)

ALFREDO Z. MATOS, of full age, being duly sworn according to law,
hereby certifies:

I am Vice President Renewables and Energy Solutions of Public Service
Electric and Gas Company, the Petitioner in the foregoing Petition.

2. I am responsible for implementing PSE&G's Solar Loan Program
("Program") and am familiar with the Program's rules and requirements, as approved by the
Board of Public Utilities.

3. I make this Certification in support of a "Stipulation on Program
Modifications" in this matter that would modify the requirement that PSE&G obtain a first
priority lien on the solar project equipment as a condition of issuing a loan.

4. In the context of receiving and reviewing applications for the Program,
PSE&G has had discussions with applicants, potential applicants, and solar installers and

developers concerning the requirement that PSE&G obtain a first priority lien on the solar project equipment.

5. For residential solar projects, the prospective borrower often has a mortgage or home equity loan on the property in question. PSE&G has been informed by the financial institutions holding said mortgages or home equity loans that the terms of such mortgages and home equity loans prevent another entity, such as PSE&G, from obtaining a first priority lien on solar equipment that is attached to the home. In addition, PSE&G has been unable to get any banks or other financial institutions to execute a subordination agreement to modify the terms of such mortgages or home equity loans so as to allow PSE&G to obtain a first priority lien on the solar project equipment.

6. In regard to commercial and industrial solar projects, the prospective borrower often seeks financing in addition to the PSE&G solar loan. PSE&G has met with resistance from such other lenders to allow PSE&G to obtain a first priority lien on the solar project equipment.

7. PSE&G has also been informed by solar installers and developers that the first priority lien requirement has been an obstacle to attracting potential customers to participate in the Program.

8. The foregoing statements are true to the best of my knowledge and belief. I am aware that if any of the foregoing statements are willfully false, I may be subject to punishment.

Original Signed By Alfredo Z. Matos

Alfredo Z. Matos

Sworn and subscribed to)
before me this 10th day)
of March, 2009

Original Signed by

Gregory Eisenstark

Gregory Eisenstark