



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

ENERGY

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

ORDER ON HMFA
INTERVENTION and ON
METHOD OF SERVICE

DOCKET NO. EO09020125

(SERVICE LIST ATTACHED)

BY COMMISSIONER FIORDALISO:

On February 10, 2009, Public Service Electric and Gas Company ("PSE&G" or "Company") filed with the Board a solar program petition, *I/M/O Petition of Public Electric Service and Gas Company Petition for Approval of a Solar Generation Investment Program and Associated Cost Recovery Mechanism*; Docket No. EO09020125 ("Program") requesting that the Board (i) retain jurisdiction of this matter and not transfer the filing to the Office of Administrative Law; and (ii) approve the Program and the proposed cost recovery mechanism.

By Order dated May 15, 2009, ("May Order") the Board retained these matters for review and hearing as authorized by N.J.S.A. 52:14F-8, 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 proceedings and modify any schedules that may be set as necessary to secure just and expeditious determination of the issues

By letter dated May 5, 2009, Robert J. Shaughnessy, DAG, on behalf of the New Jersey Housing and Mortgage Finance Agency ("HMFA") moved to intervene in this matter on behalf of HMFA. According to the motion, the agency has a portfolio of over 400 multi-family housing projects serving low and moderate income residents that have benefited from HMFA financing, and therefore, HMFA has a unique perspective representing the interests of low and moderate

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income residents, as well as the owners of affordable multi-family housing. HMFA is identified in PSE&G's petition as a collaborative partner for segment 4 of the Program seeking to install 2 megawatts of solar systems on common areas of HMFA-financed affordable housing communities. In addition, the motion asserts that HMFA seeks to intervene in these proceedings to ensure that its mortgage and regulatory controls remain undisturbed, and that the value of the Solar Renewable Energy Certificates ("SRECs") produced under the Program is sufficient consideration for use of the buildings by PSE&G, and provides adequate incentive for participation by owners.

PSE&G does not object to the motion to intervene, and no other responses to the motion were received. HMFA asserts that its staff has been participating in the meetings held to this date in this matter so that its participation will not delay or otherwise disrupt this proceeding.

FINDINGS AND DISCUSSION

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

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

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

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

Based upon the above discussion, and no objections having been filed after due notice, I **HEREBY FIND** that, as demonstrated in its motion, HMFA has an interest in the outcome of these proceedings that is sufficiently different from that of the other parties.

Therefore, I **HEREBY GRANT** HMFA's motion to intervene in these proceedings.

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

Finally, I **HEREBY DIRECT** Staff to post this Order 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: 06/08/09



JOSEPH L. FIORDALISO
COMMISSIONER