



Agenda Date: 12/16/15  
Agenda Item: 2C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9th Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

|                                                |   |                       |
|------------------------------------------------|---|-----------------------|
| IN THE MATTER OF THE PETITION OF PUBLIC        | ) | ORDER DESIGNATING     |
| SERVICE ELECTRIC AND GAS COMPANY FOR           | ) | COMMISSIONER AND      |
| AUTHORITY TO ACQUIRE THROUGH EMINENT           | ) | SETTING MANNER OF     |
| DOMAIN PURSUANT TO N.J.S.A. 48:3-17.6 AND 17.7 | ) | SERVICE AND BAR DATE  |
| INTERESTS IN PROPERTY FOR THE                  | ) |                       |
| CONSTRUCTION AND INSTALLATION OF               | ) |                       |
| UPGRADES TO PSE&G'S HASBROUCK HEIGHTS          | ) |                       |
| SUBSTATION AFFECTING THE LANDS OWNED BY        | ) |                       |
| NJ ENERGY REALTY, LLC, KNOWN AS BLOCK          | ) |                       |
| 136.02, LOT 3 (468 ROUTE 17 NORTH, HASBROUCK   | ) |                       |
| HEIGHTS, NEW JERSEY).                          | ) | DOCKET NO. EM15080986 |

**Parties of Record:**

**David K. Richter, Esq.**, Public Service Electric and Gas Company  
**Urs Broderick Furrer, Esq.**, Harriton & Furrer, LLP, on behalf of New Jersey Energy Realty, LLC  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:<sup>1</sup>

The New Jersey Board of Public Utilities ("Board") is empowered to ensure that regulated public utilities provide safe, adequate and proper service to the citizens of New Jersey. N.J.S.A. 48:2-23. Pursuant to N.J.S.A. 48:2-13, the Board has been vested by the Legislature with the general supervision and regulation of and jurisdiction and control over all public utilities, "so far as may be necessary for the purpose of carrying out the provisions of [Title 48]." The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. See e.g., In re Public Service Electric and Gas Company, 35 N.J. 358, 371 (1961), Twp. of Deptford v. Woodbury Terrace Sewerage Corp., 54 N.J. 418, 424 (1969), Bergen County v. Dep't. of Public Utilities, 117 N.J. Super. 304 (App. Div. 1971).

<sup>1</sup> Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter. Commissioner Joseph L. Fiordaliso was not present at the December 16, 2015 agenda meeting.

Public Service Electric and Gas Company (“PSE&G” or “Company”) is a corporation of the State of New Jersey, and an electric and gas public utility as defined within Title 48 of the New Jersey Statutes. PSE&G is engaged in the business of purchasing, distributing, transporting, and selling electricity and natural gas to approximately 2.1 million electric customers and 1.7 million gas customers and, as such, the Company is subject to the jurisdiction of the Board.

On August 27, 2015, PSE&G filed a petition with the Board seeking a determination that the acquisition by eminent domain of the property designated as Block 136.02, Lot 3, on the Official Tax Map of the Borough of Hasbrouck Heights, New Jersey, is reasonably necessary for the service, accommodation, convenience, or safety of the public, and that the acquisition of such property or interest therein is not incompatible with the public interest and will not unduly injure the owners of private property. The Company is also seeking a determination pursuant to N.J.S.A. 48:3-17.6 and 17.7 that it may seek to acquire the property under the Eminent Domain Act of 1971, set forth in N.J.S.A. 20:3-1, et seq.

According to the petition, the Company proposes to undertake a project which requires the installation of a new 69 kilovolt (“kV”) network between its substations located in Fairlawn, Paramus, Spring Valley Road, Hasbrouck Heights and East Rutherford (“Project”). Specifically, at the Hasbrouck Heights substation, the Company states that a 69kV four (4) bay breaker-and-a-half bus configuration with three (3) 69-4 kV transformers and one (1) 69-13 kV transformer will be constructed. In addition, an 18 Mega Volt Ampere (Reactive) (“MVAR”) 69kV capacitor bank and associated 69 kV breaker will be constructed, switchable in 9 MVAR steps. The Company states that the Project is a Supplemental Project under PJM Interconnection, LLC’s<sup>2</sup> Regional Transmission Expansion Plan.<sup>3</sup>

According to the petition, the construction of the Project is necessary to (1) relieve expected capacity overloads at the Fairlawn and East Rutherford substations and (2) maintain reliability at the Spring Valley and Hasbrouck Heights substations for existing and future customers by providing these substations with a high capacity source that can be used for future growth and expansion. The Petition further states that the Project will also assist in removing approximately 20 MVA of capacity from the heavily loaded Fairlawn 26kV grid. As part of the Project, the Spring Valley substation will also be upgraded to a 69kV source. According to the Company, this will enable it to transfer the Spring Valley substation onto the new 69kV system, thereby reducing stress on the existing 26kV grid.

According to the Company, the subject property is owned by New Jersey Energy Realty, LLC (“NJER”) and is presently being utilized as an Exxon gas station. The parcel is immediately adjacent to the Company’s existing Hasbrouck Heights 26-4 kV substation, which the Company asserts makes it ideal for expansion of the substation to 69kV.

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<sup>2</sup> PJM, the Pennsylvania-New Jersey-Maryland Interconnection, LLC, is the privately-held, limited liability corporation approved by the Federal Energy Regulation Commission as a Regional Transmission Organization that manages the regional, high-voltage electricity grid serving all or parts of thirteen (13) states, including New Jersey. PJM also operates the regional competitive wholesale electric market and manages the regional transmission planning process. N.J.S.A. 48:3-51.

<sup>3</sup> Regional Transmission Expansion Plan is an annual transmission planning process where all assumptions, analyses and decisions are subject to stakeholder review and participation.

The Company states that construction of the Project cannot be completed on the existing Hasbrouck Heights substation property due to space limitations. The Company claims that it explored the possibility of breaking the Project into pieces and performing some of the upgrades at the Hasbrouck Heights substation and other upgrades at the Spring Valley substation. It also claims that it analyzed whether using Gas Insulated Switchgear as opposed to Air Insulated Switchgear would allow the Project to be completed without additional property. However, the Company asserts that it was impossible to install the required upgrades, either together or at different stations, regardless of the design, without acquiring additional property.

PSE&G claims that it attempted to negotiate the sale of the property from its present owner during the past year, but has not been successful. PSE&G states that it sent the property owner correspondence on June 6, 2015 indicating that if a response was not received within fourteen (14) days, the Company would seek to acquire the property by eminent domain. The Company states that, as of the date of filing, it has not received a response from the property owner.

On October 5, 2015, NJER filed an answer to the petition denying the majority of the allegations asserted by PSE&G. NJER also asserted 14 affirmative defenses including that the Board lacks jurisdiction to hear this matter, that the Board may not authorize PSE&G to exercise the power of condemnation over the subject property because doing so will destroy an existing public use of the property, and that the property is not reasonably necessary for the service, accommodation, convenience or safety of the public.

## **DISCUSSION**

The Board determined that the petition described above should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, **HEREBY DESIGNATES** Joseph L. Fiordaliso as the presiding officer who is authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.

Further, the Board **HEREBY DIRECTS** that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by January 15, 2016.

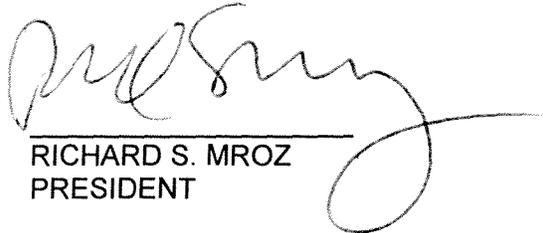
Also in the interests of economy, all parties are **HEREBY DIRECTED** to serve all documents electronically, while still providing hard copies to the Board for those documents which must be filed with the Board, and also providing two hard copies to each party, unless otherwise requested by the parties.

Finally, the Board **HEREBY DIRECTS** Staff to post this Order on the Board's website.

This Order shall be effective on December 26, 2015.

DATED: 12/16/15

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



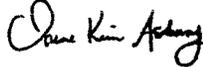
MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

ATTEST:   
IRENE KIM ASBURY  
SECRETARY

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



**IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY  
FOR AUTHORITY TO ACQUIRE THROUGH EMINENT DOMAIN PURSUANT TO N.J.S.A.  
48:3-17.6 AND 17.7 INTERESTS IN PROPERTY FOR THE CONSTRUCTION AND  
INSTALLATION OF UPGRADES TO PSE&G'S HASBROUCK HEIGHTS SUBSTATION  
AFFECTING THE LANDS OWNED BY NJ ENERGY REALTY, LLC, KNOWN AS BLOCK  
136.02, LOT 3 (468 ROUTE 17 NORTH, HASBROUCK HEIGHTS, NEW JERSEY)**

**DOCKET NO. EM15080986**

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