

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/

ENERGY

IN THE MATTER OF THE PETITION OF SOUNDVIEW)
PAPER COMPANY, LLC TO MODIFY THE ELECTRIC)
AND NATURAL GAS SOCIETAL BENEFITS CHARGE)
DUE TO CHANGED CIRCUMSTANCES)
ORDER ON MOTION TO)
INTERVENE)
BPU DOCKET NOS. ER19070812)
and GR19070813)

Parties of Record:

Kenneth R. Stark, Esq., McNeese, Wallace & Nurick, LLC on behalf of Soundview Paper Company, LLC
Stefanie A. Brand, Esq., Director, Division of Rate Counsel
Justin Incardone, Esq., Associate General Regulatory Counsel, Public Service Electric and Gas Company

BY THE BOARD:

BACKGROUND

On February 9, 1999, the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-1 to 3-46, N.J.S.A. 48:3-49, 48:3-98 and N.J.S.A. 48:3-51, -57, -59, -60, -63, 65 and -66, was enacted. L. 1999, c. 23, § 66. Among other provisions, EDECA established the Societal Benefits Charge ("SBC") at N.J.S.A. 48:3-60. The SBC constitutes a per unit charge billed to ratepayers by an electric or gas public utility at a level determined by the New Jersey Board of Public Utilities ("Board") in accordance with N.J.S.A. 48:3-60. The total amount of the SBC paid by each commercial or industrial ratepayer constitutes its SBC liability, and a portion of those remittances fund the New Jersey Clean Energy Program ("CEP").

July 2019 Petition

On July 12, 2019, Soundview filed a petition ("2019 Soundview SBC Petition") seeking to modify the Board's existing orders governing the SBC paid by Soundview at its Marcal Mill in Elmwood Park, New Jersey for electric and gas service provided by PSE&G. In the 2019 Soundview SBC Petition, Soundview sought a ninety percent (90%) reduction of the SBC associated with the

electric and natural gas distribution service it receives at the Marcal Mill through December 2022.

Additionally, Soundview indicated that it is considering applying for funds for a natural gas fired cogeneration unit. Accordingly, Soundview sought the elimination of the condition that restricts it from withdrawing any SBC funds during the time in which the SBC reduction is in effect. The potential cogeneration unit would likely not be up and running for at least two (2) years.

Soundview requested expedited review and processing of the 2019 Soundview SBC Petition due to the limited amount of time it has to make a final decision regarding whether permanently restarting operations in New Jersey is economically viable.

The Motions

Soundview Motion Pro Hac Vice

On July 12, 2019, Soundview filed a motion for the pro hac vice admission of Robert A. Weishaar, Jr., Esq., a member of the bars of Pennsylvania, the District of Columbia and Maryland. By his affidavit, Mr. Weishaar represented that he is associated with Mr. Stark as New Jersey counsel of record, Soundview has requested his representation in this matter, that he has paid the fees required by R. 1:20-1(b) and 1:28-2, and that he agrees to abide by the other requirements for admission pro hac vice.

On July 19, 2019, Public Service Electric and Gas Company ("PSE&G") filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1. PSE&G stated that it is a New Jersey public utility as defined by N.J.S.A. 48:2-13 and is engaged in the purchase, transmission, distribution, and sale of electric and related utility services to more than 2,100,000 residential, commercial, and industrial customers located within the State of New Jersey. PSE&G further asserted that it is engaged as a New Jersey public utility in the purchase, distribution, and sale of natural gas for more than 1,800,000 customers located within the State of New Jersey.

PSE&G stated that it provides electric and natural gas service to the Marcal Mill. Accordingly, PSE&G argued that Soundview's economic viability is of significant interest to PSE&G. PSE&G also argued that the service territories, customers, and operations of PSE&G are distinct from those of other parties and participants in this case. Thus, PSE&G claims that no other party or participant will represent its interests in this case.

PSE&G further asserted that it will coordinate its representation with other similarly situated parties in this docket to the extent it finds appropriate. It further stated that its company's experience in the gas and electric industry will allow them to likely constructively add to the proceeding.

PSE&G represents that it will abide by the schedule set for this proceeding and that the granting of this Motion will not cause undue delay or confusion.

DISCUSSIONS AND FINDINGS

Motion to Intervene

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 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, In re 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).

After consideration of the papers and given the lack of any objections, the Board **HEREBY FINDS**, pursuant to N.J.A.C. 1:1-16.6(b), PSE&G will be directly affected by the outcome of this proceeding, and will contribute to the development of a full and complete record for review by the Board in its evaluation. Therefore, the Board **HEREBY FINDS** that PSE&G has met the standards for intervention in this matter, as it has interests in this proceeding that are not represented by another party. Accordingly, the Board **HEREBY GRANTS** PSE&G's motion for intervention on the basis of its representations that it will adhere to the scope of the issues to be addressed in this proceeding.

Motion Pro Hac Vice

The Board has also reviewed Soundview's motion and the supporting affidavit of Mr. Weishaar. We agree that this proceeding involves a complex field of law, and are persuaded that Mr. Weishaar specializes in this area and has an attorney-client relationship with Soundview. Having received no objections to the motion after due notice to the parties, the Board **FINDS** that Mr. Weishaar has satisfied the conditions for admission pro hac vice, has 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, he **IS HEREBY ADMITTED** to practice before the Board pro hac vice in this matter provided that he shall:

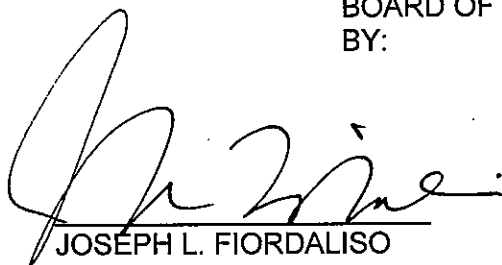
- (1) Abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;

- (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 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

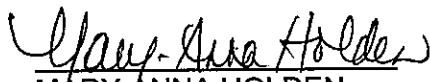
The effective date of this Board Order is September 12, 2019.

DATED: 9/11/19

BOARD OF PUBLIC UTILITIES
BY:



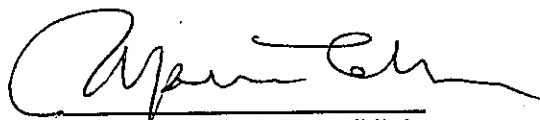
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

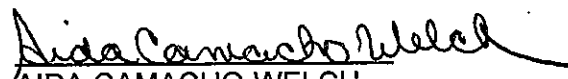


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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

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