



Agenda Date: 9/27/19
Agenda Item: 2H

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 RATE SCHEDULE CSG)
TRANSPORTATION SERVICE AGREEMENT)
BETWEEN PUBLIC SERVICE ELECTRIC AND)
GAS COMPANY AND HOLCIM (US) INC. A/K/A)
ST. LAWRENCE CEMENT AND THE RELATED)
REQUEST FOR A DISCOUNT IN THE)
APPLICABLE SOCIETAL BENEFITS CHARGE)
(SBC))

DECISION AND ORDER
APPROVING GAS SERVICE
AGREEMENT

DOCKET NO. GR19080894

Parties of Record:

Danielle Lopez, Esq., Public Service Electric and Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND AND PROCEDURAL HISTORY

On August 6, 2019, Public Service Electric and Gas Company ("PSE&G" or "Company"), filed a petition ("August 2019 Petition") with the New Jersey Board of Public Utilities ("Board") seeking approval of a Rate Schedule Contract Service Gas ("CSG") Transportation Service Agreement Extension (the "Service Agreement Extension") between PSE&G and Lehigh Cement Company, LLC ("Lehigh Cement"). The August 2019 Petition was submitted pursuant to PSE&G's Rate Schedule CSG-Contract Service as set forth in its Tariff for Gas Service on file with and approved by the Board – B.P.U. N.J. No. 15 Gas. The Service Agreement Extension, attached to the August 2019 Petition, set forth the rates, terms and conditions under which PSE&G proposes to provide firm natural gas distribution services to Lehigh Cement's facilities at 595 Morgan Boulevard, Camden, New Jersey. PSE&G further requested expedited treatment of the filing.

PSE&G presently provides natural gas transportation services to the facilities owned and operated by Lehigh Cement in Camden, New Jersey at rates and terms set by an agreement approved by the Board on September 30, 2014.¹ The September 2014 Order also approved a

¹ In re Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Holcim (US) Inc. a/k/a St. Lawrence Cement And The Related Request for a Discount In the Applicable Societal Benefits Charge, BPU Docket No. GR14040344, Order dated September 30, 2014. ("September 2014 Order")

discounted Societal Benefits Charge ("SBC") to Lehigh Cement's facility, formerly owned by Holcim) of \$0.0375 per therm (inclusive of New Jersey Sales and Use Tax ("SUT").

The August 2019 Petition sought a 10 year extension of the agreement approved by the September 2014 Order, including the provision for the discounted SBC.

2010 Discount Contract Proceeding

In 2010, the Board conducted and completed a proceeding in which it examined the standards applicable to gas distribution rate discounts and associated terms and conditions.² Subsequently, the Board approved modifications to PSE&G's tariff, including the establishment of Rate Schedule CSG, to enable PSE&G to provide discount gas service rates to counter "Economically Viable Bypass" threats or "Other Considerations."³ The CSG tariff, at sheet 112, paragraph 2, requires Board review and approval of agreements that PSE&G enters into under that tariff.⁴

In accordance with Rate Schedule CSG, in 2014 Holcim (US) Inc. a/k/a St. Lawrence Cement ("Holcim") submitted an application seeking discounted rates under the "Economically Viable Bypass" portion of Rate Schedule CSG for its facilities. Holcim also requested to have the SBC discounted to \$0.0375 per therm (inclusive of New Jersey SUT). PSE&G reviewed the information set forth in the application, and while PSE&G took no position on the request for SBC discount, it extended an offer for discounted gas service to prevent a loss of load. The agreement was subsequently approved by the Board in its September 2014 Order.

The Original CSG Service Agreement provided for a five (5) year term, effective on the first day of the month following the effective date of Board approval of the agreement, subject to early termination as provided in the CSG tariff. The rate charged is based on the contract monthly terms using the methodology applicable to Rate Schedule CSG, which includes a service charge and results in Distribution Charge of \$0.002512 per therm delivered and a Maintenance Charge of \$0.000026 per therm delivered (both excluding SUT).

Through a series of transfers, the facility in Camden New Jersey, which was the subject of the Original CSG Service Agreement (with Holcim) is now owned and operated by Lehigh Cement. Lehigh Cement is the successor in interest to the Original CSG Service Agreement between Holcim and PSE&G approved in the September 2014 Order. Lehigh Cement seeks to extend the terms of the Original CSG Service Agreement, including the discount in SBC associated with this contract. While PSE&G takes no position on the SBC discount, PSE&G requested that the Board approve the Service Agreement Extension.

Key Terms of the Contract

The Service Agreement Extension provides for a 10-year term, effective on the first day of the month following the effective date of Board approval of the agreement, subject to early

² In re a Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, Docket Nos. GR10100761 and ER10100762 (August 18, 2011). ("Discount Contract Order")

³ In re the Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions: Public Service Electric and Gas Company's Compliance Filing To Implement the Tariff Changes, Docket No. GT11090616 (May 23, 2012).

⁴ B.P.U. N.J. No. 15 Gas, Sheet No. 112, http://pseg.com/family/pseandg/tariffs/gas/pdf/gas_tariff.pdf.

termination as provided in the CSG tariff. The rate to be charged is based on the contract monthly terms using the methodology applicable to Rate Schedule CSG, which includes a service charge and results in Distribution Charge of \$0.002512 per therm delivered (excluding SUT) and a Maintenance Charge of \$0.000026 per therm delivered (excluding SUT).

The New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff"), propounded discovery upon PSE&G and Lehigh Cement.

Rate Counsel Comments

By letter dated September 18, 2019, Rate Counsel submitted comments on the proposed Service Agreement Extension. Rate Counsel stated that it does not object to the granting of PSE&G's request to extend the discounted transportation and SBC rates now in effect for Lehigh Cement for an additional 10 years. Rate Counsel stated that it appears that the cost to bypass PSE&G's facilities is negligible, as there is no PSE&G pipe between Transco and Lehigh Cement and therefore Lehigh Cement has a significant and legitimate opportunity to bypass PSE&G's facilities at little or no cost and receive gas deliveries directly from Transco. Rate Counsel further stated that while the transportation service and SBC revenues received from Lehigh Cement are relatively small, these revenues would be lost if Lehigh Cement were to bypass the Company and service to Lehigh requires minimal expenditures by PSE&G. Rate Counsel concluded that the continuation of the discounted rate would provide net benefits to ratepayers.

DISCUSSION AND FINDINGS

After reviewing the filing and Service Agreement Extension, the Board is satisfied that the Service Agreement Extension will have a financial impact that is beneficial to the Company's ratepayers by avoiding the loss of load that would otherwise result from the by-pass of the distribution system. The loss of load would result in reduced revenue that would otherwise benefit ratepayers. The Board is also satisfied that the Service Agreement Extension meets the requirements of PSE&G's previously approved tariff for CSG service. Therefore, the Board **HEREBY FINDS** that Lehigh Cement qualifies for a discounted gas service rate on the basis of economic bypass under Rate Schedule CSG and the rate to be charged satisfies the requirements of the tariff.

As noted by the Board in the Discount Contract Order, nothing in N.J.S.A. 48:3-60.1 demonstrates a legislative intent that the SBC be applied to all customers at the same level, and in practice the SBC charge varies between the utilities. Discount Contract Order at 23. In addition, the Board stated that in the appropriate circumstances, it can permit variation from the strict standard rate per therm that has been the norm for assessing the SBC from gas customers. *Ibid.* In this case, based on the information submitted in the filing, the Board **FINDS** that it is appropriate to approve the continue the discounted SBC rate of \$0.0375 per therm inclusive of SUT for the service to be provided under the Service Agreement Extension. Should the customer bypass the system, there would be no contribution to the SBC, further reducing the benefit to the Company's other ratepayers.

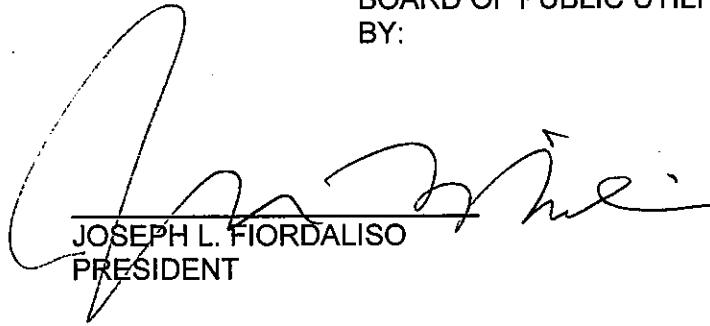
Accordingly, the Board **HEREBY APPROVES** the Service Agreement Extension attached to this Order.

PSE&G's rates will remain subject to audit by the Board. This Decision and Order does not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.

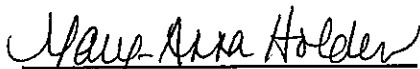
The effective date of this Order shall be September 30, 2019.

DATED: 9/27/19

BOARD OF PUBLIC UTILITIES
BY:



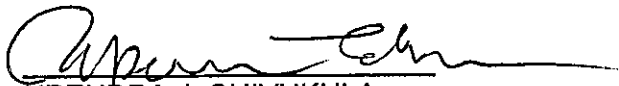
JOSEPH L. FIORDALISO
PRESIDENT



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.

**IN THE MATTER OF RATE SCHEDULE CSG TRANSPORTATION SERVICE AGREEMENT
BETWEEN PUBLIC SERVICE ELECTRIC AND GAS COMPANY AND HOLCIM (US) INC.
AKA ST. LAWRENCE CEMENT AND THE RELATED REQUEST FOR A DISCOUNT IN THE
APPLICABLE SOCIETAL BENEFITS CHARGE
DOCKET NO. GR14040344**

SERVICE LIST

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Newark, New Jersey 07102

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Lehigh Cement

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Lehigh Cement Company LLC
300 E. John Carpenter Freeway
Irving, Texas 75062
Gordon.Hodge@Lehighhanson.com

Rate Schedule CSG Service Agreement Extension

This Rate Schedule CSG Service Agreement Extension (“Agreement Extension”) is by and between Public Service Electric and Gas Company (“PSE&G”), a New Jersey corporation having its principal offices at 80 Park Plaza, Newark, New Jersey 07101 and Lehigh Cement Company, LLC a/k/a Holcim/Essroc/St. Lawrence Cement (“Lehigh Cement”) of 300 E. John Carpenter Freeway, Irving, TX 75062, collectively “the Parties” or individually “Party”).

Witnesseth

WHEREAS Lehigh Cement assumed operation of the cement facilities at 595 Morgan Blvd, Camden, NJ, currently being provided firm CSG contract service, from former owners Holcim/Essroc/ St. Lawrence Cement.

WHEREAS the five-year CSG Service Agreement (the “Original CSG Service Agreement”) entered by and between PSE&G and Holcim (US), Inc., a/k/a St. Lawrence Cement was approved by the NJ Board of Public Utilities on October 1, 2014 (effective date). The Original CSG agreement was assigned to Essroc in 2015 and Lehigh Cement in 2016.

WHEREAS Lehigh Cement seeks to extend the terms of the Original CSG Service Agreement, including the discount in Societal Benefits Charges associated with this contract (PSE&G has no position on the SBC portion of this request); and

WHEREAS Lehigh Cement submitted an application to PSE&G seeking an extension of firm service under the Original CSG Service Agreement for its facilities at 595 Morgan Blvd, Camden, NJ.

WHEREAS the Parties agree to extend the terms of the Original CSG Service Agreement in accordance with the terms of the Original CSG Service Agreement, as well as with the terms provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. The Original CSG Service Agreement, which is attached hereto and incorporated herein as part of this extension, will end on October 1, 2019.

2. The Parties agree to extend the Original CSG Service Agreement for an additional period, which will begin immediately upon expiration of the original five-year term and continue for ten (10) years thereafter.

3. This Agreement Extension binds and benefits both Parties, and this document, including the attached Original CSG Service Agreement, is the entire agreement by and between the Parties.

IN WITNESS WHEREOF, the Parties have caused this Extension Agreement to be duly executed under seal on their respective behalf, by their respective duty authorized officers.

Public Service Electric and Gas Company

By:

J. L. Carbenas

Name:

Jorge L. Carbenas

Title:

V.P. ASSET MANAGEMENT & INT. SERVICES

Dated:

9/12/19

Lehigh Cement

By:

S. S. HOFF

Name:

Captain S. Hoff

Title:

DIRECTOR OF ENERGY - NAM

Dated:

10TH SEPTEMBER 2019.

PUBLIC VERSION

Rate Schedule CSG Service Agreement

This Rate Schedule CSG Service Agreement ("Agreement") is by and between Public Service Electric and Gas Company ("PSE&G"), a New Jersey corporation having its principal offices at 80 Park Plaza, Newark, New Jersey 07101 and Holcim (US) Inc. aka St. Lawrence Cement ("Holcim") of 6211 Ann Arbor Rd., Dundee, MI 48131 (collectively "the Parties" or individually "Party").

Witnesseth

WHEREAS Holcim submitted an application to PSE&G seeking firm service under PSE&G's Rate Schedule CSG – Contract Service to the Facilities to its facilities at 595 Morgan Blvd. Camden, NJ, and

WHEREAS PSE&G has evaluated Holcim's application for Rate Schedule CSG service under the Economic Bypass portion of that tariff and determined that it would be consistent with the terms of its Tariff for Gas Service on file with and approved by the NJBPU – B.P.U.N.J. No. 15 – Gas (hereinafter "Gas Tariff"), including the terms of Rate Schedule CSG, for PSE&G to provide firm CSG service to Holcim at the rates, terms and conditions set forth in this Agreement, except that Holcim requests to have the Societal Benefits Charges discounted and further requests a retroactive effective date of the expiration of its prior contract, and PSE&G has no position on those requests, such that both parties request that the Board of Public Utilities address these requests in its order addressing this agreement; and

NOW, THEREFORE, in consideration of the above stated premises and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

PUBLIC VERSION

1. Term

This Agreement shall be effective April 1, 2014 or the first day of the month following the effective date of approval of this Agreement by the NJBPU if the effective date of such approval is later than April 1, 2014, unless the NJBPU order addressing this Agreement provides a different date (the "Effective Date") and shall extend for a period of five (5) years thereafter (each such year being a Contract Year during the term of this Agreement).

2. CSG Service

2.1 Service – From and after the Effective Date specified in Section 1.1, PSE&G shall provide to Holcim firm service in accordance with the Economically Viable Bypass alternative of the Rate Schedule CSG tariff at PSE&G meter delivery point with meter numbers 400000001 and 400000002. The average annual therm that applies to this contract at the time of signing is Average Annual Therm

██████████. PSE&G shall provide gas volumes as follows: ██████████ Thousand Cubic Feet (Mcf) on a maximum hourly basis, ██████████ Mcf on an average daily basis, and ██████████ Mcf on a maximum monthly average daily usage basis.

2.2 Rates – The rates charged to Holcim for the Facilities served under this Agreement shall be for firm service in accordance with the Economically Viable Bypass alternative of the Rate Schedule CSG tariff except as set forth below.

Distribution and Maintenance Charges –

1. Distribution Charge - ██████████ per therm delivered (██████████ per therm with current Sales and Use Tax)
2. Maintenance Charge - \$ ██████████ per therm delivered (\$ ██████████ per therm with current Sales and Use Tax)

PUBLIC VERSION

2.3 Billing And Payment - PSE&G will bill Holcim monthly for charges for CSG services in accordance with its Gas Tariff.

3. Approvals

3.1 NJBPU Approval - This Agreement is contingent upon approval by the New Jersey Board of Public Utilities.

4. Miscellaneous

4.1 Governing Law - This Agreement shall be governed by the law of the State of New Jersey without resort to principles of conflicts of law.

4.2 Assignment - Neither Party may assign this Agreement without the prior written consent of the non-assigning party, which shall not be unreasonably withheld or delayed. Without relieving itself of its obligations under this Agreement, either Party may transfer its interest to an affiliate with the prior consent of the other Party.

4.3 Notices - Notices under this Agreement shall be in writing and shall be sent as follows:

To Holcim:

Commodity Manager, Energy
211 Ann Arbor Rd.
Dundee MI 48131

TO: PSE&G

President
Public Service Electric and Gas Company
80 Park Plaza
Newark, NJ 07102

4.4 Entire Agreement; Amendments and Waivers - This Agreement, together with all attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede and take the place of any and all agreements, documents, minutes of meetings, or letters concerning the subject matter hereof made, prior to the Effective Date of this Agreement.

PUBLIC VERSION

- 4.5 Construction – The headings and captions of the various articles and sections of this Agreement have been inserted solely for purposes of convenience, are not part of this Agreement, and shall not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Agreement. The term “including” when used herein shall mean “including, without limitation.” Wherever this Agreement the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require.
- 4.6 Third Party Beneficiaries – No individual or entity other than the Parties shall have any rights or claims under this Agreement.
- 4.7 No Waiver – The failure of either Party to seek redress for any breach, or to insist upon the strict performance, of any covenant or condition of this Agreement by the other shall not be, or be deemed to be, a waiver of the breach or failure to perform nor prevent a subsequent act or omission in violation of, or not strictly complying with, the terms hereof from constituting a default hereunder.
- 4.8 Multiple Counterparts – This Agreement may be executed in one or more counterparts, including facsimile pages which shall be deemed originals with the originals to be provided within a reasonable time, all of which shall together constitute one and the same instrument.
- 4.9 Cumulative Remedies – All rights and remedies of either Party are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not

PUBLIC VERSION

prejudice or impair the concurrent or subsequent exercise of other rights or remedies

4.10 Representation by Counsel; Mutual Negotiation – Each Party has been represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction and construction of the Parties, at arm's length with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed under seal on their respective behalf, by their respective duly authorized officers.

Public Service Electric and Gas Company

By: J. L. Carberry

Name: James L. Carberry

Title: V.P. ASSET MANAGEMENT + CONT. SERVICES

Dated: 3/28/14

Holcim (US) Inc.

By: Jeffrey J. Ouhl

Name: JEFFREY J OUHL

Title: SVP MANUFACTURING

Dated: 3/19/14