



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF PUBLIC SERVICE ELECTRIC) ORDER
AND GAS COMPANY RATE SCHEDULE CSG)
SERVICE - ELIMINATION OF BGSS ASSET)
CHARGE) BPU DOCKET NO. GR22020103

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Matthew M. Weismann, Esq., on behalf of Public Service Electric and Gas Company
Colleen A. Foley, Esq., Saul Ewing Arnstein & Lehr, LLP on behalf of Parkway Generation Operating LLC

BY THE BOARD:¹

On February 25, 2022, Parkway Generation Operating LLC ("Parkway" or "Petitioner"), filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") seeking approval to eliminate the Basic Gas Supply Service ("BGSS") Asset Charge ("Petition"). Parkway made the filing pursuant to the terms of Rate Schedule Contract Service ("CSG") Transportation Service Agreement ("CSG Agreement") between Public Service Electric and Gas Company ("PSE&G") and PSEG Power LLC ("Power") approved by Order dated May 29, 2013.² By this Order, the Board considers Parkway's request to modify the CSG Agreement.

BACKGROUND/PROCEDURAL HISTORY

On October 12, 2012, PSE&G filed a petition with the Board requesting approval of a Transportation Service Agreement between PSE&G and Power ("October 2012 Petition"). Power sought discounted rates under Rate Schedule CSG for certain gas facilities it operated. As a part of the October 2012 Petition, PSE&G proposed to charge Power's gas facilities an additional charge to compensate PSE&G's firm sales customers through the BGSS Asset Charge when Power is able to benefit from its ability to use tertiary rights to obtain lower cost natural gas supplies from PSE&G's BGSS provider, PSEG Energy Resources & Trade ("PSEG ER&T"). PSEG ER&T, a former subsidiary of Power, supplies BGSS needs using upstream interstate

¹ Commissioner Zenon Christodoulou abstained from voting on this matter.

² In re PSE&G Agreement with PSEG Power Under Rate Schedule CSG Service, BPU Docket No. GM12100935, Board Order dated May 29, 2013 ("CSG Order").

pipeline and natural gas supply contracts, which were termed BGSS Assets. PSE&G ER&T purchased natural gas supplies for Power and delivered those supplies to Power, and was permitted to utilize the BGSS Assets to effectuate those deliveries. Thus, PSE&G ER&T could purchase gas for Power using the BGSS Assets rather than Power obtaining and purchasing gas supplies at the pipeline city gates where the Power facilities are located.

On May 29, 2013, the Board issued the CSG Order and authorized PSE&G to enter into the CSG Transportation Service Agreement with Power, effective October 1, 2013. On October 1, 2013, PSE&G and Power entered into the CSG Agreement, which established the rates to be paid by Power to PSE&G for natural gas transportation services to generation facilities owned and operated by Power at nine (9) locations in New Jersey. The CSG Agreement included the BGSS Asset Charge, and according to the CSG Order it was to “compensate PSE&G’s firm sales customers when PSEG Power is able to benefit from its ability to use” the BGSS Assets.³

Petition

According to the Petition, on February 18, 2022, Parkway and its affiliates acquired certain gas facilities from Power, and as a result, the BGSS Assets are no longer used to supply or deliver natural gas to the facilities. Parkway explicitly stated that it is not using, and it will never use, the BGSS Assets to supply or deliver natural gas to the facilities. Petitioner further indicated that in connection with the acquisition, PSE&G, Power, and Parkway entered into a Consent to Assignment dated August 12, 2021 that acknowledged that the new owner of the facilities is assigned all rights and obligations of Power under the CSG Agreement except it will not have any rights to use the BGSS Assets to acquire gas supply for the facilities.

Parkway stated that the facilities are receiving natural gas supplies from upstream interstate pipeline and natural gas supply contracts from a third party that is not affiliated with PSE&G, Power or PSEG ER&T. As such, Parkway contended that there is no need for any compensation for use of the BGSS Assets to PSE&G and sought the Board’s approval to eliminate the BGSS Asset Charge from the CSG Agreement. Parkway indicated in the Petition that the CSG Agreement contains a mechanism by which the parties can modify or eliminate the BGSS Asset Charge. According to the Petition, PSE&G consented to the elimination of the BGSS Asset Charge.

On April 14, 2022, PSE&G filed a Motion to Participate in this matter and no party opposed.

New Jersey Division of Rate Counsel (“Rate Counsel”) Comments

On June 30, 2022, Rate Counsel filed comments asking the Board to reject Parkway’s request to eliminate the BGSS Asset Charge, thereby leaving Parkway to the remedies available under the CSG Agreement. See Rate Counsel Comments at 3. Rate Counsel noted that under the CSG Agreement, Board approval is not required for Parkway to discontinue paying the BGSS Asset Charge. Instead, Parkway could wait for a denial, or for a six-month period from the filing of the Petition, and give the required 30-day notice which must run “after the end” of the current one (1)-year extension. Id. at 4. Rate Counsel stated that using this remedy, the BGSS Asset Charge can be eliminated without Board approval on October 30, 2022, which is 30 days after the current one-year extension ends on September 30, 2022. Id. at 5. Rate Counsel urged the Board to decline to give Parkway the benefit of an earlier end date for a charge that provides a substantial benefit to Parkway and no benefit to PSE&G’s ratepayers. Id. at 5.

³ CSG Order at 2.

Rate Counsel also requested that the Board specifically provide the time when the BGSS Asset Charge may be eliminated pursuant to the CSG Agreement. Id. at 5. Rate Counsel noted that in discovery, Parkway claimed that the BGSS Asset Charge can be discontinued as early as 30 days after either 1) the passage of six (6) months from the filing of the Petition or 2) a denial by the Board. Rate Counsel argued this is an incorrect reading of the contract language. Id. at 5. Rate Counsel noted that the CSG Agreement provides that the BGSS Asset Charge may be eliminated in the event of Board denial by providing “thirty (30) days written notice after the end of the initial three year (3) contract period, or on thirty (30) days written notice after the end of any annual extension thereof...” Id. at 5. Rate Counsel stated that this language makes it clear that the 30-day notice period must begin after the end of the initial term or one-year extension, or, in this case, after September 30, 2022, meaning the BGSS Asset Charge could not end until after October 30, 2022 and that the Board should confirm this time frame in its Order. Id. at 5.

Rate Counsel further requested that the Board clarify the effective date if it decides to grant Parkway’s request. Rate Counsel explained that the periods provided in the CSG Agreement clearly intended to allow for modifications of the BGSS Asset Charge, if there is Board approval, to be effective as of the end of the initial three year period, or the end of a one year extension. Id. at 6. As a result, Rate Counsel stated if the Board decides to approve the elimination of the BGSS Asset Charge, the Board should clarify that the elimination would take effect on October 1, 2022 and not earlier. Id. at 6.

Parkway’s Reply Comments

On July 14, 2022, Parkway filed reply comments, requesting that the Board reject Rate Counsel’s position, and expeditiously grant the relief requested by Parkway. Parkway stated that Rate Counsel’s argument justifying the continuation of the BGSS Asset Charge by linking it to natural gas transportation rates is not supported by the terms of the CSG Agreement. According to Parkway, the CSG Agreement shows the BGSS Asset Charge was separate and distinct from the gas transportation rates, and that the parties fully intended that the BGSS Asset Charge could be eliminated – even over the objection of the Board. Parkway Reply Comments at 2. Parkway asserted any notion that payment of the BGSS Asset Charge is a condition for obtaining and continuing the approved natural gas transportation rates is not supported by the facts. Id. 2 to 3.

Parkway asserted that Rate Counsel’s statement that PSE&G’s customers should participate in the negotiation of the sale of assets of an unregulated PSE&G affiliate is inconsistent with the Board’s actions regarding electric restructuring as well as the Board’s established regulations governing relationships between public utilities and their unregulated affiliates. Id. at 3. Parkway asserted there is no legal or factual support for Rate Counsel’s arguments and they should be rejected as an unfair effort to continue to extract unreasonable fees from Parkway. Id. at 3.

Parkway noted that it is a fact the BGSS Asset Charge will be eliminated with the only issue being when it happens. Id. at 3. Parkway asserted that Rate Counsel’s argument is an attempt to alter the plain language of the CSG Agreement and thereby extend the period for which Parkway would pay the BGSS Asset Charge. Parkway noted that the CSG Agreement permits the BGSS Asset Charge to be discontinued 30 days after the passage of six months from the filing of the Petition (i.e, September 25, 2022) or 30 days from a denial by the Board. Parkway noted that it will comply with the notice requirement in the CSG Agreement. Id. at 3. Parkway stated that Rate Counsel rewrites the CSG Agreement and replaces the word “any” with “current” and asserted that the BGSS Asset Charge may not be eliminated before October 30, 2022 if the Board denies or fails to act on Parkway’s request and that this interpretation is inconsistent with the language in the CSG Agreement. Id. at 3 to 4.

DISCUSSION AND FINDINGS

The Board carefully reviewed the record in this proceeding including the Petition, Rate Counsel's Comments and Parkway's Reply Comments. The Board does not agree with Rate Counsel's position that the Board should either deny the Petition or have the BGSS Asset Charge eliminated without a Board ruling by operation of the CSG Agreement following the Board's failure to timely address the Petition. Rather, it is appropriate that the Board act on the Petition and resolve the issues related to the BGSS Asset Charge.

The Board notes that Parkway made its filing six (6) months prior to September 30, 2022, the end of the current CGS Agreement term. As such, the Board **FINDS** that Parkway's Petition was timely and in conformity with the provisions of the CSG Agreement.

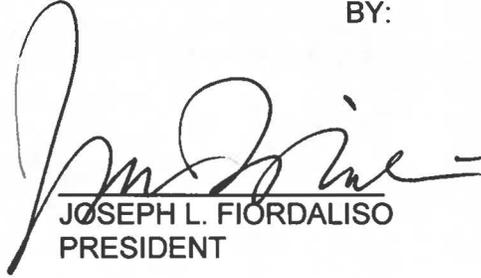
The Board **HEREBY FINDS** Parkway's request to eliminate the BGSS Asset Charge reasonable. The Board **FURTHER FINDS** the request will not adversely affect the public interest, and will not affect the Company's ability to render safe, adequate and reliable service. Therefore, the Board **GRANTS** the Petition and **HEREBY APPROVES** the elimination of the BGSS Asset Charge, effective October 1, 2022. The Board **HEREBY DIRECTS** Parkway to file proper notice pursuant to the CSG Agreement, such that the BGSS Asset Charge will end effective October 1, 2022. The Board **FURTHER DIRECTS** Parkway to send a copy of the notice to the Board. As such, the Board **DENIES** Rate Counsel's request to make the elimination of the BGSS Asset Charge effective no sooner than October 30, 2022.

PSE&G's costs, including those related to the BGSS and Balancing Charge, will remain subject to audit by the Board. This Decision and Order shall not preclude, nor prohibit, the Board from taking any actions determined to be appropriate as a result of any such audit.

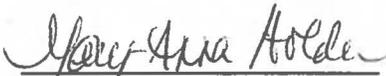
The effective date of this Order is August 24, 2022.

DATED: August 17, 2022

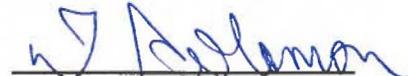
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY ANNA HOLDEN
COMMISSIONER

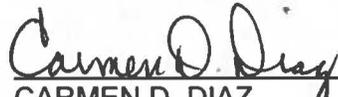


DIANNE SOLOMON
COMMISSIONER

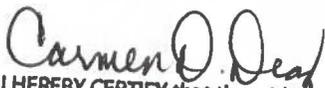


ROBERT M. GORDON
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING 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 PUBLIC SERVICE ELECTRIC AND GAS COMPANY RATE SCHEDULE
CSG SERVICE-ELIMINATION OF BGSS ASSET CHARGE

BPU DOCKET NO. GR22020103

SERVICE LIST

<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Carmen Diaz, Acting Secretary of the Board board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Office of the General Counsel</u></p> <p>Carol Artale, Esq., Deputy General Counsel carol.artale@bpu.nj.gov</p> <p>Heather Weisband, Esq., Senior Counsel heather.weisband@bpu.nj.gov</p> <p><u>Division of Energy</u></p> <p>Paul Lupo, Bureau Chief paul.lupo@bpu.nj.gov</p> <p>Ryan Moran ryan.moran@bpu.nj.gov</p> <p><u>New Jersey Division of Law</u> 25 Market Street Post Office Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, ASC, DAG pamela.owen@law.njoag.gov</p> <p>Michael Beck, DAG michael.beck@law.njoag.gov</p> <p>Matko Ilic, DAG matko.ilic@law.njoag.gov</p> <p>Daren Eppley, DAG daren.eppley@law.njoag.gov</p>	<p><u>New Jersey Division of Rate Counsel</u> 140 East Front Street, 4th Floor Post Office Box 003 Trenton, NJ 08625</p> <p>Brian Lipman, Esq., Director blipman@rpa.nj.gov</p> <p>Maura Caroselli, Esq., Managing Attorney mcaroselli@rpa.nj.gov</p> <p>Sarah Steindel, Esq. ssteinde@rpa.nj.gov</p> <p><u>Public Service Electric and Gas Company</u></p> <p>Matthew M. Weissman, Esq. PSEG Services Corporation 80 Park Plaza, T5 Post Office Box 570 Newark, NJ 07102 matthew.weissman@pseg.com</p> <p><u>Parkway Generation Operating LLC</u></p> <p>Grace S. Kurdian, Esq. Deputy General Counsel, Kindle Energy 500 Alexander Park Drive Suite 300 Princeton, NJ 08540 grace.kurdian@kindle-energy.com</p> <p><u>Saul Ewing Arnstein & Lehr, LLP</u></p> <p>Courtney L. Schutz, Esq. 1500 Market Street, 38th Floor Philadelphia, PA 19102 courtney.schultz@saul.com</p> <p>Colleen A. Foley, Esq. One Riverfront Plaza, Suite 1520 Newark NJ 07102 colleen.foley@saul.com</p>
---	--