

In 2010 and 2011, the Board conducted and completed the 2010 Discount Contract proceeding in which it examined the standards applicable to gas distribution rate discounts and associated terms and conditions.² In the Discount Contract Order, the Board noted that nothing in N.J.S.A. 48:3-60(a) shows 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.

By Order dated November 16, 2015, the Board approved a Rate Schedule CSG Agreement between Soundview and PSE&G for a term of seven (7) years.³ In the 2015 Gas SBC Order, the Board approved a discount of the SBC associated with Soundview's natural gas distribution service. Under the discount, Soundview was required to pay only the CEP portion of the SBC.

By Order dated December 18, 2018, the Board approved a discounted SBC for the electric usage of Soundview.⁴ The 2018 Electric SBC Order approved a 50% reduction to Soundview's electric SBC obligations. The 50% electric SBC reduction also expires on December 1, 2022. The joint position approved by the 2018 Electric SBC Order included a condition wherein Soundview committed to not withdraw funds from the CEP while the SBC reduction was in effect.

By Order dated September 27, 2019, the Board approved discounted SBC rates for the electric and natural gas usage of Soundview.⁵ The September 2019 Order approved a 75% discount of the total SBC rate that is billed by PSE&G to Soundview for electric service and natural gas service.

August 2022 Petition

In the August 2022 Petition, Marcal requested a three-year extension in agreements governing the SBC that Marcal pays for electric and gas service. Concurrently, a Motion for Admission Pro Hac Vice in New Jersey for Robert A. Weishaar, Jr. was filed with the Board. Marcal stated that it has not withdrawn any CEP funds since the Board approved the current 75% SBC discounts for natural gas and electric service at the Marcal Mill. Marcal previously reviewed and considered applying for funds for a natural gas fired, cogeneration facility ("Co-Gen Unit"). However, Marcal does not anticipate further exploring the possibility in the immediate future. If Marcal decides to further explore the installation and use of a Co-Gen Unit at the mill and finalizes plans to use a Co-Gen Unit, Marcal affirmed that it would surrender any SBC discounts that are currently in place before the Co-Gen Unit is energized.

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

³ In re the Petition of Soundview Paper Company, LLC for Approval of a Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Soundview Paper Company, LLC and In re Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Marcal Manufacturing, LLC and the Potential Discount of Societal Benefits Charges, BPU Docket Nos. GR14111287 and GR15060659, Order dated November 16, 2015 ("2015 Gas SBC Order").

⁴ In re the Petition of Soundview Paper Company, LLC for Approval of a Reduction of the Societal Benefits Charge, BPU Docket No. ER18070706, Order dated December 18, 2018 ("2018 Electric SBC Order").

⁵ In re the Petition of Soundview Paper Company, LLC to Modify the Electric and Natural Gas Societal Benefits Charge Due to Changed Circumstances, BPU Docket Nos. ER19070812 and GR19070813, Order dated September 27, 2019 ("September 2019 Order").

In addition, Marcal requested expedited review and processing of this matter to avoid further financial strain in the event Marcal does not receive the extensions prior to the discounts' expiration on December 1, 2022.

THE MOTIONS

Marcal Motion Pro Hac Vice

On August 12, 2022, Marcal 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, that Marcal 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.

PSE&G Motion to Intervene

On September 30, 2022, PSE&G filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1 – 16.4. 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 2,400,000 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 CSG to the Marcal Mill. According to the motion, Marcal requested an extension of the 75% SBC discounts for electric and gas service. The SBC includes components for: Social Programs, Energy Efficiency and Renewables Programs, Manufactured Gas Plant Remediation, Universal Service Fund – Permanent, and Universal Service Fund-Lifeline. PSE&G stated that, in its role as a utility, it has the duty to bill each of these components accurately, reflecting any discount not only in the total SBC but also in each component of the SBC for the multi-year duration of any discount. During that period, the overall SBC, as well as the individual components, will likely have different rates. Thus, PSE&G claimed that it will be directly and specifically affected by the relief provided herein, and has an interest in any final order issued in this matter. PSE&G further claimed that its interests are clearly distinct from other entities and that no other party to this proceeding can adequately represent PSE&G's interests in this matter.

PSE&G further asserted that its experience in the gas and electric industry will allow them to likely constructively add to the proceeding. Additionally, PSE&G represented that the granting of its motion will not cause undue delay or confusion.

Rate Counsel Response to PSE&G's Motion to Intervene

On October 12, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a response to PSE&G's motion to intervene in this matter. Rate Counsel stated that it has no objection to PSE&G's motion. Rate Counsel is in agreement with PSE&G that it will be directly and specifically affected by the Board's determination in this matter because, in its role as a utility, PSE&G has the responsibility for the correct billing of the SBC. Accordingly, Rate Counsel asserts that PSE&G meets the standards for intervention.

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 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 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, Order dated 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, and it will add measurably and constructively to the proceeding without causing delay. 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 Marcal's motion for admission pro hac vice 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 Marcal. 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;

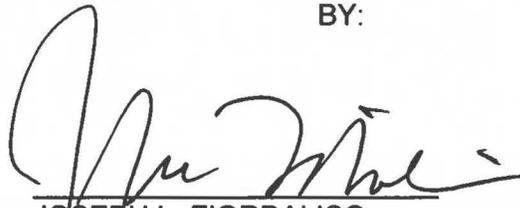
2. Consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;
3. Notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; 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 therein.

The effective date of this Board Order is November 2, 2022.

DATED: October 26, 2022

BOARD OF PUBLIC UTILITIES

BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

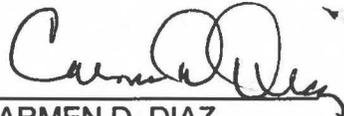


ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
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 THE PETITION OF MARCAL MANUFACTURING, LLC FOR A THREE-YEAR EXTENSION IN
ELECTRIC AND NATURAL GAS SOCIETAL BENEFITS CHARGES

DOCKET NO. GR22080486

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