



Agenda Date: 11/21/25

Agenda Item: 8B

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

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF PUBLIC)	ORDER ON MOTION FOR
SERVICE ELECTRIC AND GAS COMPANY FOR)	RECONSIDERATION
APPROVAL OF ITS CLEAN ENERGY FUTURE-)	
ELECTRIC VEHICLE MEDIUM HEAVY-DUTY)	
("CEF-EV MHD") PROGRAM ON A REGULATED)	DOCKET NO. QO25020101
BASIS)	

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

Stacey M. Mickles, Esq., Associate Counsel, Regulatory Law, Public Service Electric and Gas Company

Kaitlin Morrison, Esq., Staff Attorney, Eastern Environmental Law Center

BY THE BOARD:

By this Decision and Order, the Board considers a Motion for Reconsideration filed by CALSTART, Inc. ("CALSTART" or "Movant") on August 15, 2025 ("Motion"), requesting the Board to reconsider Commissioner Marian Abdou's July 31, 2025 Order denying CALSTART's May 14, 2025 Motion Seeking Leave to Intervene in this matter.¹

BACKGROUND AND PROCEDURAL HISTORY

By Order dated October 23, 2024, the Board established minimum filing requirements directing the State's four (4) investor-owned electric distribution companies ("EDC") to propose programs calculated to expand access to charging for medium- and heavy-duty ("MHD") Electric Vehicles ("EV") and all EV fleets.² Specifically, the Board directed each EDC to file an MHD Plan with the Board within 120 days of the effective date of the October 2024 Order, to include programs, subject to Board approval, that are calculated to expand access to charging for MHD EVs and all EV fleets.

¹ In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Electric Vehicle Medium Heavy-Duty ("CEF-EV MHD") Program on a Regulated Basis, BPU Docket No. QO25020101, Order dated July 31, 2025 ("July 2025 Order").

² In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946, Order dated October 23, 2024 (Revised October 28, 2024) ("October 2024 Order").

On November 7, 2024, the Board received a Motion for Reconsideration filed by the New Jersey Division of Rate Counsel (“Rate Counsel”), whereby Rate Counsel argued that the Board erred in adopting the MHD framework contained in the October 2024 Order. By Order dated February 12, 2025, the Board denied Rate Counsel’s Motion for Reconsideration and clarified certain sections of the October 2024 Order pertaining to EDC prudency when preparing sites for charging infrastructure.³

On February 27, 2025, Public Service Electric and Gas Company (“PSE&G”) filed its petition in this matter, proposing an MHD EV program (“Petition”). By Order dated April 23, 2025, the Board retained the Petition for hearing and designated Commissioner Marian Abdou to preside over all four (4) EDC MHD EV filings and directed that all motions to intervene or participate in this matter be filed by May 14, 2025.⁴

By the July 2025 Order, Commissioner Abdou granted participant status to joint movants Atlantic City Electric Company, Rockland Electric Company, and Jersey Central Power & Light Company (“Joint Utilities”); denied CALSTART’s request for intervenor status and, in the alternative, granted CALSTART participant status; and granted intervenor status to the Environmental Intervenors.

Motion for Reconsideration

By the Motion, CALSTART requested that the Board reconsider the July 2025 Order’s denial of CALSTART’s Motion to Intervene and subsequently grant CALSTART intervenor status in this proceeding. CALSTART argued that denial of CALSTART’s Motion to Intervene is inconsistent with precedent, misunderstands the standards for intervention, and misunderstands CALSTART’s ability to develop a complete record in this proceeding. CALSTART noted that, by the July 2025 Order, the Commissioner found CALSTART possesses a significant interest in this matter but, coupled with no determination that CALSTART’s inclusion would cause delay, should have resulted in the Movant’s inclusion as an intervenor. CALSTART proffered that the Board “traditionally defaults to allowing intervention for those parties who will not cause delay or other confusions,” noting that no allegation that CALSTART will cause delay or confusion has been levied, that the Movant will not cause undue confusion or delay, and that the Board should continue to default to permitting intervenor status when requested absent any such determination that the movant will cause undue confusion or delay.

CALSTART further argued that, because its significant interest in the outcome of this case is acknowledged in the July 2025 Order, no further analysis is necessary to determine whether intervention is warranted. CALSTART further noted that it has a significant interest in the outcome of this case because rate design decisions directly affect CALSTART’s members by enabling or hindering their ability to do business in the State.

CALSTART further argued that the Commissioner’s decision to deny intervention “[w]hile nowhere expressly stated in the [July 2025 Order] . . . was, in some manner, swayed by the allegations

³ In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946, Order dated February 12, 2025 (“February 2025 Order”).

⁴ In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, et al., BPU Docket Nos. QO21060946, QO25020096, QO25020097, QO25020100, and QO25020101, Order dated April 23, 2025.

made by [Rate Counsel] that CALSTART's interest in this case is 'purely economic'" and that the Movant's interest is more than purely economic. CALSTART identified that, because it is not a trade organization but a 501(c)(3), it has no economic interest in this matter as an individual organization. In addition, CALSTART argued that economic concerns have a longstanding role in intervention and the Board has a longstanding history of granting intervention to large energy users with purely economic interests.

CALSTART further argued that it is uniquely situated to add constructively to this case because no other party engages with PSE&G's EV MHD program as a customer or with the "actual end-result of this proceeding." CALSTART noted that it has, from its initial review of the Petition, identified ways it can provide substantial revisions to rate design that will enhance PSE&G's proposal and that no other party is situated to provide such recommendations.

Lastly, CALSTART argued that it has substantial ties to New Jersey because it is a member of a consultant team serving as third-party administrators for the New Jersey Department of Environmental Protection's ("DEP") Clean Corridor Coalition. CALSTART further noted that it has members either with current projects in New Jersey or with New Jersey identified as a "high priority" and that the assertion contained in the July 2025 Order that CALSTART's members have no concern about the PSE&G EV MHD program is incorrect.

Responses

Rate Counsel's Response

By letter dated August 25, 2025, Rate Counsel responded to the Motion, arguing that the Motion should be denied because CALSTART failed to demonstrate the July 2025 Order is arbitrary, capricious, or unreasonable. Rate Counsel identified that, instead, CALSTART reargued its prior Motion to Intervene, to which Commissioner Abdou properly applied the requirements of N.J.A.C. 1:1-16.3(a) and for which Commissioner Abdou properly applied the balancing test referenced in the Motion.

Rate Counsel further reiterated that, as identified in the July 2025 Order, CALSTART's interests are adequately represented by those of PSE&G in this matter and the Movant has not identified any interest not adequately represented by PSE&G. Rate Counsel noted that, rather than address any shortcoming in the Movant's filing, CALSTART erroneously argued that greater weight should be given to its expertise and that the Movant argued its members will be substantially affected by the outcome of this proceeding without providing any new supporting information. Rate Counsel emphasized that CALSTART's "attempts to reframe or recharacterize its members' interests" undermine its arguments in favor of its Motion to Intervene.

Rate Counsel emphasized that the primary consideration for intervention as a party is the nature and extent of the party's interest in the outcome of the proceeding and, if the other requirements for intervention are met but a party does not demonstrate a substantial, direct, and specific impact, N.J.A.C. 1:1-16.5 and 16.6 permit the Movant's inclusion as a participant.⁵ Rate Counsel argued that CALSTART failed to demonstrate that it, or its members, will be substantially, specifically,

⁵ See In re Petition of Public Service Electric and Gas Company for Approval of the Second Energy Strong Program (Energy Strong II), BPU Docket Nos. EO18060629 and GO18060630, Order dated November 30, 2018.

and directly affected by the outcome of this proceeding because it and its members are market participants who are potential providers of MHD EV equipment or services and the interests of suppliers and customers are not directly at issue in this matter. Rate Counsel noted that the Board previously found the “attenuated interests” of market participants, such as CALSTART and its members, are insufficient to grant intervention.⁶ Rate Counsel further identified that CALSTART’s interests have already been addressed because it participated fully in comments considered by the Board by its Order dated October 23, 2024.⁷

Rate Counsel argued that CALSTART’s economic interests are insufficient to justify standing as a party, noting that Commissioner Abdou admitted the Joint Utilities as participants based upon their economic interests in this proceeding. Rate Counsel identified that CALSTART is not, itself, initiating an MHD EV program and its members have only a tangential economic interest in this matter as market participants; therefore, Rate Counsel argued that the Movant’s inclusion as a participant was not in error.

Lastly, Rate Counsel argued that CALSTART and its members’ interests are protected if CALSTART remains a participant in this matter because the Movant will still be able to argue its position, file statements and briefs, and file exceptions even if not granted party status; CALSTART can still protect its stated interests despite not being a full party to this proceeding.

Environmental Intervenors’ Response

By letter dated August 25, 2025, the Environmental Intervenors supported the Motion, arguing that CALSTART’s interests in this proceeding are sufficiently distinct to warrant intervention because CALSTART is a clean-transportation-focused nonprofit as opposed to the Environmental Intervenors which are all environmental nonprofit corporations. The Environmental Intervenors explained that CALSTART’s interests are analogous to that of other groups that have been granted intervenor status in Board proceedings such as trade associations like the Energy Efficiency Alliance of New Jersey (“EEA-NJ”). The Environmental Intervenors noted that the Board granted EEA-NJ’s intervention because its member organizations were directly involved in the planning and implementation of the programs in question and intervened in prior, similar proceedings.⁸ The Environmental Intervenors argued that, similarly, CALSTART has members that will be directly involved in building out EV MHD infrastructure, and CALSTART had already been involved in this matter through comments and in serving as fleet advisor for the DEP. The Environmental Intervenors identified that the Board has denied intervention to individual businesses with self-serving interests limited to expanding business opportunities, but they argued that CALSTART is not “an individual business with a purely economic motive.”

⁶ See In re Middlesex Water Company for Approval of an Increase in its Rates for Water Service and Other Tariff Changes, and for an Order Authorizing Special Accounting Treatment of Income Tax Refund Proceeds and Future Income Tax Deductions, BPU Docket No. WR17101049, Order dated January 31, 2018; see also In re the Petition of Public Service Electric and Gas Company for Approval of Its Clean Energy Future-Energy Cloud (“CEF-EC”) on a Regulated Basis, BPU Docket No. EO18101115, Order dated April 1, 2020.

⁷ In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, BPU Docket No. QO21060946, Order dated October 23, 2024.

⁸ In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Energy Efficiency II (CEF-EE II) Program on a Regulated Basis, BPU Docket No. QO23120874, Order dated February 26, 2024.

The Environmental Intervenors further argued that CALSTART is likely to add measurably and constructively to the case because it has experience engaging with other utility commissions as a party, and CALSTART submitted expert comments regarding utility program design that the Environmental Intervenors would find useful. The Environmental Intervenors further argued that the July 2025 Order made no finding that CALSTART's inclusion would cause undue confusion or delay and that, in the Environmental Intervenors' experience, CALSTART has no history of causing such confusion or delay.

CALSTART Reply

By letter dated August 28, 2025, CALSTART replied to Rate Counsel and the Environmental Intervenors' responses, agreeing with the Environmental Intervenors' position and opposing Rate Counsel's position. CALSTART argued that, contrary to Rate Counsel's position, an arbitrary, capricious, or unreasonable decision is not the only basis for which the Board may grant a Motion for Reconsideration. CALSTART proffered that Rate Counsel ignored certain Board precedent concluding that reconsideration is appropriate where "1) the decision is based upon a 'palpably incorrect or irrational basis' or 2) it is obvious that the trier of fact did not consider, or failed to appreciate, the significance of probative, competent evidence." Cap. Fin. Co. of Del. Valley, Inc., v. Asterbadi, 398 N.J. Super. 299, 310 (App. Div. 2008) (quoting D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)). CALSTART argued that there is no dispute that the decision to grant it participant status was both based on an incorrect or irrational basis and on a failure to appreciate the significance of probative, competent evidence.

CALSTART further argued that the Motion is not a re-litigation of its Motion to Intervene because citing the Order, which was issued after the Motion to Intervene, is necessarily the introduction of a new argument appropriately raised by CALSTART. CALSTART noted that the July 2025 Order failed to address the nature of the Movant's interests, the impact this matter would have on CALSTART's members, and the information CALSTART could provide in these proceedings. CALSTART identified that there is a clear link between the outcome of this proceeding and the ability of its members to do business in the State because CALSTART's members are entities seeking to become PSE&G customers and subject to the rates designed in this proceeding.

CALSTART identified that Rate Counsel failed to address the substance of its assertions that its members have the most to gain or lose by this proceeding and failed to recognize that the apparent lack of correlation between CALSTART's interest and the decision to deny their intervention represents an incorrect or irrational basis that renders the decision arbitrary and capricious. Lastly, CALSTART argued that Rate Counsel is incorrect in asserting that EV MHD equipment suppliers and customers' interests are not directly at issue in this matter because the purpose of this matter is to examine PSE&G's proposal to spend, and recover in rates, in excess of \$40 million.

By Order dated September 10, 2025, following Commissioner Abdou's resignation from the Board, the Board designated Commissioner Christodoulou as presiding commissioner with

authority to rule on all motions and set all schedules as necessary to ensure a just and expeditious resolution of the issues in this proceeding.⁹

DISCUSSION AND FINDINGS

N.J.S.A. 48:2-40 expressly provides that the Board, at any time, may revoke or modify an order made by it. See Twp. of Deptford v. Woodbury Terrace Sewerage Corp., 54 N.J. 418, 428 (1969); see also N.J.A.C. 14:1-8.6(b). N.J.A.C. 14:1-8.6 requires that a request for rehearing or reconsideration be done by a motion that enumerates “the alleged errors of law or fact” that the Board relied upon in rendering its decision. Additionally, where an opportunity is sought to introduce additional evidence, that evidence shall be stated briefly with the reasons for failing provide it previously.

Generally, a party should not seek reconsideration merely based upon a dissatisfaction with a decision. D’Atria, 242 N.J. Super. at 401. Rather, reconsideration is reserved for those cases where 1) the decision is based upon a “palpably incorrect or irrational basis” or 2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. Ibid.; see also Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the action was arbitrary, capricious, or unreasonable. D’Atria, 242 N.J. Super. at 401. The Board “will not modify an Order in the absence of a showing that the Board’s action constituted an injustice or that the Board failed to take notice of a significant element of fact or law.” In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2019; In re the Allocation of Renewable Portfolio Standards for Basic Generation Service Beginning June 1, 2019, BPU Docket Nos. ER18040356 and EO18111250, Order dated May 28, 2019; In re Michael Manis and Manis Lighting, LLC – New Jersey Clean Energy Program Renewable Energy Incentive Program, BPU Docket No. QS14040316, Order dated April 15, 2015.

CALSTART argued that, by the July 2025 Order, Commissioner Abdou erred in her application of the standard for intervention and misunderstood Board precedent for approving or denying Motions to Intervene. CALSTART argued that Commissioner Abdou misapplied that standard for intervention set forth in N.J.A.C. 1:1-16.3. However, by the July 2025 Order, Commissioner Abdou clearly followed Board precedent in balancing the desire for a full and complete record with the requirements of the New Jersey Administrative Code. In doing so, Commissioner Abdou assessed CALSTART and its members’ interest in the outcome of this case and found that interest to be insufficiently distinct from that of PSE&G but found CALSTART’s interest in this proceeding to be significant enough to warrant it full inclusion as a participant and thus contribute to the full record via the rights to argue orally, file statements or briefs, and file exceptions.

While Commissioner Abdou did not rule on the likelihood that CALSTART’s inclusion would cause undue confusion or delay in this proceeding, the lack of such finding is neither dispositive nor justification enough to reverse the Commissioner’s denial of CALSTART’s motion. To the contrary, as noted by Rate Counsel in its response, the primary consideration in ruling on a Motion to Intervene is the nature and extent of the party’s interest in the outcome of the proceeding. Specifically, the party’s interest must be specific, direct, and different from that of

⁹ In re Medium and Heavy Duty Electric Vehicle Charging Ecosystem, et al., BPU Docket Nos. QO21060946, QO25020096, QO25020097, QO25020100, and QO25020101, Order dated September 10, 2025.

the other parties so as to add measurably and constructively to the scope of the case. Accordingly, Commissioner Abdou based her decision upon her evaluation that PSE&G's interests in having its program approved sufficiently represented CALSTART's interests and that CALSTART's interests are not direct enough to warrant inclusion as a full party in this proceeding. See July 2025 Order at 5.

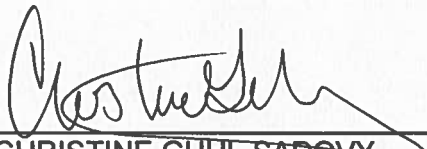
CALSTART did not present new facts which the Board should take into account in reconsidering whether to admit the Movant as an intervenor. Rather, CALSTART readdressed the arguments contained in its initial Motion to Intervene, arguing that Commissioner Abdou's decision was in error and misunderstood CALSTART's position and the relevant standards.


The decisions made via the July 2025 Order were neither palpably incorrect, irrational, nor based upon a failure to consider significant probative evidence. In this situation, CALSTART merely disagreed with the conclusions of the July 2025 Order as well as considerations "nowhere expressly stated in [the July 2025 Order]" which CALSTART baselessly alleged and with which it disagreed. As such, because CALSTART offered no new facts, CALSTART based the Motion on mere disagreement with the July 2025 Order, and Commissioner Abdou properly applied the standards set forth in N.J.A.C. 1:1-16.3, the Board **HEREBY DENIES** CALSTART's Motion for Reconsideration. The Board **HEREBY FINDS**, while there is low likelihood of CALSTART causing undue delay or confusion in this matter if included as an intervenor, the nature and extent of CALSTART's interests do not warrant intervenor status.

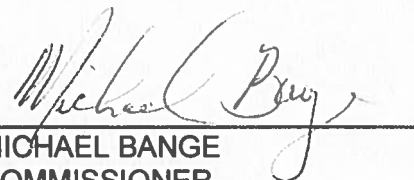
This Order shall be effective on November 28, 2025.

DATED: November 21, 2025

BOARD OF PUBLIC UTILITIES
BY:


CHRISTINE GUHL-SADOVY
PRESIDENT


DR. ZENON CHRISTODOULOU
COMMISSIONER


MICHAEL BANGE
COMMISSIONER

ATTEST:


SHERRI L. LEWIS
BOARD 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 APPROVAL
OF ITS CLEAN ENERGY FUTURE-ELECTRIC VEHICLE MEDIUM HEAVY-DUTY ("CEF-EV MHD") PROGRAM
ON A REGULATED BASIS
DOCKET NO. QO25020101

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF MEDIUM AND HEAVY DUTY ELECTRIC VEHICLE CHARGING ECOSYSTEM)))))	Docket No. QO21060946
IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ELECTRIC VEHICLE MEDIUM HEAVY-DUTY(“CEF-HV MHD”) PROGRAM ON A REGULATED BASIS)))))))	Docket No. QO25020101

**CALSTART, INC’s MOTION FOR RECONSIDERATION TO THE FULL BOARD OF
THE SINGLE COMMISSIONER ORDER DENYING INTERVENTION BUT
ALLOWING PARTICIPATION**

CALSTART, Inc. (CALSTART or Movant), a tax exempt, non-profit 501(c)(3) corporation of the State of California, having its principal offices at 48 S Chester Ave, Pasadena, California, by its undersigned counsel, hereby requests that the New Jersey Board of Public Utilities (Board or BPU) reconsider and reverse the July 31, 2025, decision by then-Commissioner Mariane Abdou¹ in the above-captioned matter to the extent that the Order denied intervention status for CALSTART. Specifically, Commission Abdou denied the request for intervention by CALSTART and instead restricted CALSTART’s role to participation status, rather than the full

¹ Commissioner Abdou resigned from the Board effective July 31, 2025.

opportunity sought (and deserved) by CALSTART to develop the record in this proceeding as an Intervenor. In support of its request, CALSTART states as follows:

A. THE COMMISSIONER’S DENIAL OF THE MOTION FOR INTERVENTION IS INCONSISTENT WITH BOARD PRECEDENT; IS BASED UPON A MISUNDERSTANDING OF THE STANDARDS APPLICABLE TO INTERVENTION AND A MISAPPREHENSION OF CALSTART’S UNIQUE ABILITY TO DEVELOP A ROBUST AND COMPLETE RECORD THE BOARD CAN USE TO MAKE AN INFORMED DECISION.

1. In I/M/O the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Electric Vehicle Medium Heavy-Duty (“CEF-EV MHD”) Program on a Regulated Basis, Order on Motions to Intervene or Participate, BPU Docket No. QO25020101, dated July 31, 2025 (hereinafter, “Order Under Reconsideration”), Commissioner Abdou denied the request of CALSTART for intervention status, but allowed for participation status, and explicitly authorized that CALSTART’s involvement in the case would be limited only to the right to argue orally, file statements or briefs, and file exceptions.
2. The “foundation” for this decision appears to be that the Commissioner was “not persuaded ... that CALSTART’s interests are sufficiently great so as to warrant CALSTART’s inclusion as an intervenor.” Id., at 4. Additionally, the Commissioner appears to believe that CALSTART failed to establish a “clear link” between the proceeding and the ability of CALSTART’s members to do business in the State, that CALSTART has not intervened before, and that CALSTART’s members will gain from any positive decision in this matter, so thus they need not be involved. Id., at 4-5.
3. Curiously, the Commissioner then also stated that “CALSTART has a significant interest in this proceeding.” Id., at 5. As will be discussed below, this finding, coupled with a lack of any findings that CALSTART would cause delay, should actually be the beginning and

end of the analysis. Nonetheless, CALSTART does wish to bring the following to the Board's attention and consideration.

4. As will be shown, this decision to not allow for intervention by CALSTART runs counter to regulation and Board precedent, and appears to reflect a misunderstanding of the nature of intervention, the risks associated with CALSTART's exclusion, and the fundamental nature of providing a full and complete hearing in the best interest of all the parties, the Board, the ratepayers, and even the utility.
5. It is for this reason, and as will be discussed more fully below, that CALSTART seeks reconsideration, by either the new Commissioner to be appointed as the presiding Commissioner on this matter or the full Board, and subsequent granting of full intervener status, with all of the benefits and obligations that come with such a designation.
6. Motions for reconsideration before the Board are controlled by N.J.A.C. 14:1-8.6.

Specifically, this regulation notes that:

(a) A motion for rehearing, reargument, or reconsideration of a proceeding may be filed by any party within 15 days after the effective date of any final decision or order by the Board.

1. Such motion shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration, reargument, rehearing or further hearing is requested and whether the ultimate relief sought is reversal, modification, vacation or suspension of the action taken by the Board or other relief.

....

(b) The Board at any time may order a rehearing, reargument or reconsideration on its own motion and extend, revoke or modify any decision or order made by it.

[N.J.A.C. 14:1-8.6.]

7. The Order Under Reconsideration indicates a date of issuance on its face of July 31, 2025, and thus this motion is timely so long as filed on or before Friday, August 15, 2025.²
8. CALSTART believes a number of mistaken or misunderstood elements led to the decision to only allow for participation status, and not the full intervention status, as requested in the initial motion.
9. Significantly, the Board has noted in prior cases that,

in considering whether or not to grant a Motion for Reconsideration, the moving party must show that the [Commissioner] acted in an arbitrary, capricious or unreasonable manner. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). A party should not seek reconsideration merely based upon dissatisfaction with a decision. [Ibid.] Rather, reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis;” or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. See, e.g., Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996).

[I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; I/M/O the Implementation Of L. 2012, C. 24, N.J.S.A. 48:3-87(t)-A Proceeding to Establish A Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; Vanguard Energy Partners, LLC and Industrial Land Reclaiming Landfill, Order, BPU Docket Nos. EO12090832V, EO12090862V, and QO13111136, dated March 19, 2014, at 5.]

10. As will be shown below, this Motion for Reconsideration fully satisfies this requirement, as the Commissioner’s failure to consider the nature of the intervention was based upon a “palpably incorrect or irrational basis” or else the Commissioner “did not consider, or failed to appreciate, the significance of probative, competent evidence.” D’Atria, 242 N.J. Super. at 401.

² Interestingly, CALSTART, despite being a moving party and the subject of the Order, was not listed as a Party of Record and was not served a copy of the Order. CALSTART did find a copy of the Order posted online by the Board on July 31, 2025.

11. First, and as an overarching understanding, the BPU traditionally defaults to allowing intervention for those parties who will not cause delay or other confusions in a case. Here, by the Commissioner's own statement, CALSTART was not seen as causing any delay, confusion, or disruption to the underlying case. Not a single mention was made by the Commissioner in her Order alleging or identifying any way in which CALSTART could or would cause any delay or disruption to the case. While not explicitly dispositive, as will be discussed below, the lack of confusion, disruption, or other impediment to the underlying case removes the only major basis for denying intervention.
12. Reviewing courts have frequently reversed Board decisions based upon process or procedural errors that improperly restrict an interested entity's right to due process. See, e.g., I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2008, 205 N.J. 339 (2011) (reversing the Board's pass through of solar costs because the Board failed to provide sufficient notice and opportunity to comment); I/M/O the Board's Main Extension Rules N.J.A.C. 14:3-8.1 et seq., 426 N.J. Super. 538 (App. Div. 2012) (reversing the Board for its failure to provide retroactive effect to a rule); In re Centex Homes, LLC, 411 N.J. Super. 244 (App. Div. 2009) (reversing the Board on its Main Extension Rules not on the content, but on the lack of authority). As such, the Board has, and should, continue to default to allowing for an open, inclusive, responsive, and rational hearing process.
13. Here, the presiding Commissioner appears to have misunderstood the overall approach that the Board has historically taken in matters of intervention, in light of its intent to allow for full, open, and transparent proceedings that enable the Board to develop a robust record that can inform its decision-making. As seen in cases such as I/M/O the Petition of New

Jersey-American Water Company, Inc. for Approval of Proposed Cost Recovery of Lead Service Replacement Plan, Prehearing Order and Order Ruling on Motion to Intervene, BPU Docket No. WR22010017, dated May 27, 2022, in which then-Commissioner Mary-Anna Holden noted, in allowing intervention to a number of private entities, including one *after* the deadline, that:

Application of these [intervention] standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves 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 interveners' interests be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case.

[Id. at 3.]

14. Commissioner Holden cited I/M/O the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control of Public Service Electric and Gas Company, and Related Authorizations, Order on Motion of New Jersey Public Interest Group Citizens Lobby, Inc, for Interlocutory Review, BPU Docket No. EM05020106, dated June 8, 2005, at 6, which, in turn, cites, I/M/O the Petition of Atlantic City Electric Co., et al., Order on Motions to Intervene/Participate and for Pro Hoc Vice Admission, BPU Docket Nos. EX94120585Y, EO97070457, EO97070460, EO97070463, and EO97070466, dated September 15, 1997, at 10. As such, this has been the Board's policy and approach for at least the last 30 years.
15. This policy and implementation of the intervention process is clear, reasonable, rational, and beneficial to the State. In essence, this approach is to balance the risk of delay against the value of allowing in different viewpoints and different positions.

16. Here, the case where CALSTART sought intervention reflects an easy balance.

CALSTART filed – timely – for intervention. CALSTART met all the criteria for intervention required by the Board and therefore should have been granted intervenor status. As set forth in N.J.A.C. 1:1-16.3, the Board considers the following in choosing to grant a motion for intervention: the nature of and extent of the moving party’s interest in the outcome; if the interest is sufficiently different from any other party so as to add measurably and constructively to the case; the prospect for confusion or delay resulting from inclusion; and other appropriate matters. N.J.A.C. 1:1-16.3(a); I/M/O the Joint Petition of Public Service Electric and Gas Company, at 3.

17. The Order Under Reconsideration denying the intervention appears to misapply this standard. As an initial consideration, the Commissioner at no point identifies, states, or even implies that the inclusion of CALSTART in this matter would or even **might** cause confusion, delay, or any other impediment to the timely administration of justice. This is, of course, correct; nothing about CALSTART’s intervention would cause any issue whatsoever. CALSTART filed a timely request for intervention, will be represented by counsel, and will engage with the case, the parties, and the Board according to the rules and regulations of the State, all while bringing a unique and different viewpoint to the proceeding, as the only independent, non-environmental party in the case.

B. CALSTART HAS A SIGNIFICANT INTEREST IN THE OUTCOME OF THE PROCEEDING AND THAT INTEREST SUPPORTS INTERVENTION.

18. In the Order the Commissioner explicitly stated that “CALSTART has a significant interest in this proceeding.” Order Under Reconsideration, at 5.

19. In a very real sense – this is the end of the analysis required to determine if intervention is warranted. CALSTART will cause no delay and, without question, has a significant

interest in the proceeding. As such, based upon the Board's historical approach, the controlling regulations, and good governance, CALSTART should be granted intervenor status.

20. Additional details only strengthen this conclusion. The Commissioner acknowledges that this is the only medium heavy-duty electric vehicle proceeding in which CALSTART has sought intervention, and yet then makes the assertion that CALSTART has failed to "establish a clear link" between the proceeding and the ability of members to do business in the State. Putting aside that this is not even remotely a requirement for intervention, see N.J.A.C. 1:1-16.3(a), it is also incorrect. Rate design decisions, such as the ones in play in this matter, directly impact the ability of CALSTART's members to participate and succeed in the State, as pointed out clearly in the initial motion and the response document.
21. Stating that many members of CALSTART already have projects under development, as the Commissioner did, does not mean that those members are not concerned with or impacted by the outcome of this proceeding. In fact, the polar opposite is true; can the Board imagine parties more interested in the outcome of a proceeding than those very entities participating, actively, in the market? Of course not. These are the very entities most impacted, not least.
22. Additionally, the Commissioner claims that "CALSTART's members consist of EV service equipment providers which will receive direct financial benefit through charging depot rates that are not determined by Board-approved ratemaking proceedings." See Order Under Reconsideration, at 5. This is simply not true. CALSTART's members are absolutely impacted from rates under the Board's supervision, approval, and control. CALSTART's members benefit (or suffer) from the speed, cost, nature, and process of

electrification and EV infrastructure. They are directly and significantly impacted by the policies that will be discussed, determined, and ultimately set in this proceeding. This is not a guess, not hyperbole, and not a likelihood; it is an absolute. CALSTART's members work and operate pursuant to EV programs like the one proposed by PSE&G. How that program is designed, functions, and the utility provides rates and incentives, is a key issue for CALSTART and its members.

23. In fact, the members of CALSTART are significantly involved and impacted by this proceeding. As noted by one such member organization:

We are a CALSTART member, and we are developing a depot for medium- and heavy-duty fleets in NJ. Demand charges in NJ are one of the most important factors in determining the economics at our site and the viability of the project, especially in the early stages when site utilization is low. We, along with peer companies who are also building MHD charging, encouraged CALSTART to get involved in this proceeding due to the critical importance for our business.

C. CONTRARY TO PRECEDENT AND THE PLAIN LANGUAGE OF THE REGULATION GOVERNING INTERVENTION, THE COMMISSIONER MISTAKENLY CONCLUDED THAT CALSTART SHOULD BE DENIED INTERVENTION BECAUSE ITS MEMBERS HAVE AN ECONOMIC INTEREST IN THE PROCEEDING.

24. While nowhere expressly stated in the Commissioner's Order, it would appear that the Commissioner was, in some manner, swayed by the allegations made by the Division of the Rate Counsel that CALSTART's interest in this case is "purely economic." As CALSTART noted in its reply papers, this statement is both incorrect and meaningless. CALSTART has significant mission and policy goals, and seeks to have a broader understanding and more effective regulatory environment for the development, cost, and investment associated with the proposed program, which goes well beyond "purely economic" concerns. CALSTART is not a trade organization; it is a mission-base 501(c)(3)

nonprofit organization designed to operate in the public good. As such, CALSTART itself has no economic interest in the outcome as an individual organization.

25. Additionally, economic concerns have a longstanding and significant role in intervention and activity before the Board. In fact, the entity making the claim that CALSTART should not be allowed to intervene based upon purely economic interest – Rate Counsel – has a primarily economic interest in the matter. As noted on their website, “[t]he mission of the Division Rate Counsel [sic] is to make sure that all classes of utility consumers receive safe, adequate and proper utility and certain insurance services **at affordable rates that are just and nondiscriminatory.**” (emphasis added).³ Similarly, there is a long history of the Board granting intervention to large energy consumers seeking to intervene in utility proceedings where the sole interest of those entities is economic. See, e.g., I/M/O the Petition of Public Service Electric and Gas Company for Approval of a Solar Energy Program and an Associated Cost Recovery Mechanism, Prehearing Order, BPU Docket No. EO07040278, dated September 12, 2007 (allowing a coalition of large energy users to intervene in PSE&G’s solar program implementation); I/M/O the New Jersey Board Of Public Utilities' Consideration of thee Tax Cuts And Jobs Act Of 2017; I/M/O Public Service Electric & Gas Company for Approval of Revised Rates (Effective On An Interim Basis April 1, 2018) to Reflect the Reduction Under the Tax Cuts and Jobs Act of 2017, Order, BPU Docket Nos. AX18010001 and ER18030231, dated March 29, 2018 (allowing the intervention of the large energy user coalition into a rate case, over the objection of the utility, because the claim that the outcome of the case “will have an impact on the cost of

³ Available online at: <https://www.nj.gov/rpa/about/mission.html>.

electric and natural gas distribution services received from the identified utilities by the members” was found to be sufficient foundation for approval of intervention).

26. To have Rate Counsel state, and, apparently, have a Commissioner agree, that economic interests are insufficient, illegitimate, or not the foundation for approval of intervenor status before the Board, runs counter to common sense and the regulatory foundation for intervention, as well as the Board’s long-standing practice of granting intervention due to a movant’s economic interest.

D. CALSTART IS UNIQUELY SITUATED TO ADD CONSTRUCTIVELY TO THE ADMINISTRATIVE RECORD; THE BOARD WILL BENEFIT GREATLY FROM CALSTART’S INTERVENTION.

27. CALSTART brings important, unique, and distinct points-of-view to this proceeding, such that the record will be materially improved by its intervention. Essential, none of the other parties engage with the program as “customers” or otherwise expect to engage and participate in the actual end-result of this proceeding. Other than CALSTART, the only entities that have sought full-party status are a coalition of five environmental, non-governmental organizations (“NGOs”), consisting of the Sierra Club, the Environmental Defense Fund, New Jersey Progressive Equitable Energy Coalition, Environment New Jersey, and Isles, Inc., (collectively “Joint Movants”).⁴ None of those entities are structured or prepared to provide testimony and insight on commercial-fleet economics or utility tariff design for trucks; likewise, none of their missions focus specifically on accelerating market deployment of zero-emission medium- and heavy-duty vehicles (“M-HDVs”). Yet, in the Order Under Reconsideration, this coalition was authorized to enter the case as intervenors.

⁴ On May 14, 2025, Atlantic City Electric Company, Rockland Electric Company, and Jersey Central Light & Power Company (collectively the “Electric Utilities”) filed a Joint Motion to participate in the proceeding.

No analysis was conducted, and the only difference appears to be that Rate Counsel did not file a “pro forma” opposition.

28. The decisions made in this matter by the Board will have a direct and significant impact on whether CALSTART can achieve its policy goals to rapidly electrify M-HDV and off-road vehicles and equipment in New Jersey. The tariff structures, incentives, and make-ready cost-recovery mechanisms established in this docket will determine whether CALSTART can achieve its policy goals of ensuring that fleet electrification in New Jersey is cost-competitive when fueling with traditional fuels like gasoline and diesel. This program will impact one of the largest shipping ports in the United States, and the local and national interests of CALSTART are significantly impacted by the Board’s decision. Through its intervention CALSTART will introduce evidence that addresses these important considerations. The Commissioner made a mistake when she failed to consider CALSTART’s capacity to add to the record despite its clear experience and expertise.
29. In the Order Under Reconsideration, the Commissioner’s “analysis” completely ignored a critical argument in CALSTART’s motion for intervention – the expertise and of CALSTART and its unique ability to add constructively to the administrative record. The Commissioner did not address the unopposed and uncontested statements that no other party has the quantity and variety of data directly from fleets needed to submit the type and quality of testimony that CALSTART can submit. As stated in the motion, CALSTART is uniquely situated with member companies and public institutions whose perspective only CALSTART can present for the Board’s use, education, and understanding. The Board has traditionally been very interested in ensuring that industry and customer expertise is

provided in matters under its purview, and in this case, only CALSTART can provide that much needed expertise and insight.

30. At a minimum, CALSTART has, from just its initial review of the filing in this matter, identified areas where it can provide well-considered and substantial recommended revisions to rate design that will make aspects of PSEG's proposal a better fit for MHD fleets. This cannot be done through participation; it needs intervention to allow for discovery, testimony, and cross-examination. No other party has an interest, desire, or ability to make these types of recommendations and reviews. This is a classic example of one of the key factors for intervention – will the interest be sufficiently different from any other party so as to add measurably and constructively to the record. Here, the Commissioner committed a mistake by failing to consider and address CALSTART's special capacity to develop the evidentiary record for the Board's consideration.
31. It is uncontested that PSEG's rate design will greatly impact how most MHD infrastructure developers make investment decisions and thus the future of MHD fleet electrification in New Jersey. Based on CALSTART's experiences working with other environmental organizations, no other party in this proceeding will be able to introduce these types of detailed analyses into the record. In addition, CALSTART will inform the scope of PSEG's proposed Load Modifying Technology program in New Jersey by introducing cost data provided by member companies. By aggregating and anonymizing the confidential data, CALSTART can share information that no individual company would be able or willing to file.
32. What appears to have been ignored, misunderstood, or otherwise simply rejected without analysis is the core element that CALSTART brings a unique viewpoint and provides an

interest that transcends “purely economic” concerns. Due to the Commissioner’s denial of CALSTART’s motion for intervention, CALSTART is prohibited from providing thoughtful and well-informed testimony and supporting data in this proceeding. Precluding the introduction of such evidence unfairly impacts CALSTART’s members and will deprive the Board and the citizens of the State of valuable information that the Board should consider in its decision-making.

E. CALSTART HAS SUBSTANTIAL TIES TO NEW JERSEY AND HAS BEEN WORKING CLOSELY WITH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

33. It appears that the Commissioner either overlooked this unique viewpoint in their review of CALSTART’s motion, or perhaps did not fully value the fact that the state has chosen CALSTART to assist in aspects of its charging system incentive program.
34. Specifically, CALSTART is a member of the consultant team serving as third-party administrators for the New Jersey Department of Environmental Protection on the Clean Corridor Coalition, supporting the buildout of MHD ZEV charging infrastructure along I-95. In this role, CALSTART is providing guidance to New Jersey and the other participating states on investment strategies to maximize utilization of MHD charging assets and minimize costs, both for fleet charging customers and for ratepayers more broadly. This includes extensive stakeholder engagement with utilities, charging providers, site developers, fleet operators, and OEMs, all of whom are intently focused on the impact of rate design on charging hub economics. Finally, CALSTART and the consultant team will be developing a model RFP for the participating states to select MHD charging developers; a task that cannot be completed effectively without intimate understanding of New Jersey’s utility policies and rate design.

35. With this participation in the State in mind, the decision by the Commissioner to exclude CALSTART from developing the record is even more confusing.
36. Similarly, without making it explicit, it would appear that the Commissioner took the language from the initial motion for intervention noting that two CALSTART members are currently operating charging infrastructure facilities in New Jersey while eight additional members have indicated that New Jersey is a “high priority” state for expansion, and construed that as support for the proposition that CALSTART and its members had no concern about the PSE&G program. This is, at best, a misunderstanding and incorrect assumption.
37. That these projects are ongoing is more reason for CALSTART to be allowed to intervene, not less. CALSTART can point to actual, explicit, and definitive interest in the program and the risk of being bound by a program that can, for better or worse, directly impact the success or failure. This is not theoretical or slight – it is a significant and actual interest in the outcome of this case, as identified in N.J.A.C. 1:1-16.3(a).
38. If CALSTART is limited to joining this proceeding only as a participant, without any ability to introduce this evidence or conduct discovery, its value to the Board would be limited. As the Board continues to contemplate these important decisions regarding MHD fleets, there is a benefit (and a regulatory requirement) of diverse perspectives regarding rate design and the ability to conduct detailed analyses.
39. As an intervenor in the proceeding, CALSTART will play a focused role that will provide the Board the benefit of its experience and perspective, especially related to the best practices and “lessons learned” from programs in other jurisdictions, specifically with regards to policy determination, utility incentives and tariff designs.

40. CALSTART's interests are to move this proceeding along as efficiently as possible, and to seek settlement, if possible, so that fleet electrification in New Jersey can proceed as quickly as possible. CALSTART will not be the source of delay in this proceeding.

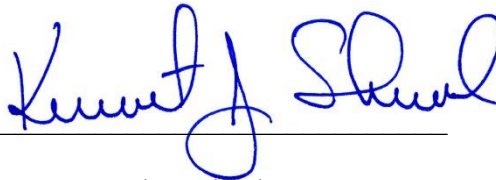
CONCLUSION

For the foregoing reasons CALSTART respectfully requests that the Board grant its Motion for Reconsideration to the Full Board of the Single Commissioner Order Denying Intervention but Allowing Participation in the above-captioned proceeding.

Respectfully submitted,

GREENBAUM ROWE SMITH & DAVIS, LLP

Attorneys for Proposed Intervenor CALSTART, Inc.

By: 

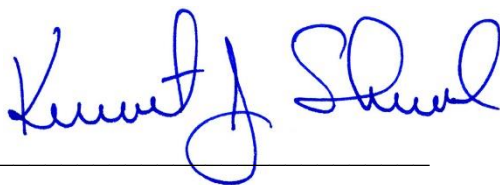
Kenneth J. Sheehan

Dated: August 15, 2025

CERTIFICATION OF SERVICE

I hereby certify that I have on this day served via electronic mail copies of the foregoing Motion for Reconsideration to the Full Board of the Single Commissioner Order Denying Intervention but Allowing Participation in the above-captioned proceeding to the parties identified on the service list.

Dated this 15th day of August, 2025.

By: _____

Kenneth J. Sheehan

CERTIFICATION OF ALEX PFEIFER-ROSENBLUM
IN SUPPORT OF THE MOTION FOR INTERVENTION OF CALSTART

I, Alex Pfeifer-Rosenblum, of full age, hereby certifies and say:

1. I am the Regulatory Director for CALSTART.
2. This certification is submitted in support of CALSTART's Motion for Reconsideration to the Full Board of the Single Commissioner Order Denying Intervention but Allowing Participation in the above-captioned proceeding. I have reviewed the Motion and certify that the statements included are true and accurate.

I certify that the above statements made by me are true and accurate to the best of my knowledge. I am aware that if any of the above statements made by me are willfully false, I am subject to punishment.

On behalf of CALSTART



By:

Alex Pfeifer-Rosenblum, Regulatory Director

Dated: August 15, 2025

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL
OF ITS CLEAN ENERGY FUTURE-ELECTRIC VEHICLE MEDIUM HEAVY-DUTY ("CEF-EV MHD") PROGRAM
ON A REGULATED BASIS
DOCKET NO. QO25020101

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August 28, 2025

Via Email Only

Sherri Golden
Secretary of the Board
New Jersey Board of Public Utilities
44 S. Clinton Avenue
P.O. Box 350
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RE: I/M/O the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Electric Vehicle Medium and Heavy Duty ("CEF-EV MHD") Program on a Regulated Basis – BPU Docket No. QO25020101

CALSTART, Inc's Motion for Reconsideration to the Full Board of the Single Commissioner Order Denying Intervention but Allowing Participation

CALSTART Reply to Responsive Filings

Dear Secretary Golden:

Please accept this brief letter on behalf of CALSTART, Inc. ("CALSTART") in reply to the responsive filings submitted on August 25, 2025, by the Eastern Environmental Law Center ("EELC") and the New Jersey Division of Rate Counsel ("RC") in the above captioned matter.

As an initial matter, CALSTART fully adopts and is in agreement with the position taken by EELC in its submission. EELC essentially agrees with CALSTART and notes the value that CALSTART would bring to this proceeding. EELC states that the liberal intervention standard the New Jersey Board of Public Utilities ("Board" or "BPU") normally operates under is crucial for the BPU to access diverse information and viewpoints, which will assist in the making of well-informed decisions. EELC emphasizes that CALSTART's expertise in medium and heavy-duty electric vehicle utility program design will provide

valuable contributions, especially as no other party or intervenor aligns as closely with the implicated industries.

Likewise, EELC notes that CALSTART's interests are distinct from those of the Environmental Parties represented by EELC, as CALSTART is a clean-transportation-focused nonprofit closely aligned with industry participants. EELC recognizes and highlights the understanding that CALSTART's role is more like that of trade associations that have been granted intervention by the Board in other, similar matters, due to their industry connections and policy missions. EELC agrees that CALSTART's involvement is expected to add constructively to the proceedings, particularly in areas like rate design, which is crucial for the success of the program.

Finally, EELC reinforces what CALSTART has said from the beginning, and what no party has contested – CALSTART's intervention will not cause confusion or undue delay, as evidenced by its past timely and constructive engagement in similar proceedings. EELC emphasized that CALSTART's participation will benefit the Board's decision-making process and the overall development of the program.

With that, EELC, a full party to the matter, made an unambiguous and unqualified recommendation to have CALSTART also serve as a full party in this matter. The Board should accept this position and allow CALSTART to fully intervene in this matter.

This response by EELC is in direct and full contravention with the RC response. RC claims that CALSTART failed to demonstrate that the Commissioner's decision to not allow intervention was "arbitrary, capricious, or unreasonable." RC Letter Filing, at 3. While an arbitrary, capricious or unreasonable decision by the Board certainly warrants the Board's reconsideration of such a decision, that standard is not the sole basis upon which the Board

evaluates a motion for reconsideration. Here, RC focuses exclusively on an “arbitrary, capricious and unreasonable” standard while ignoring Board decisions, cited by both CALSTART and RC, clearly concluding that reconsideration is appropriate where “(1) the decision is based upon a ‘palpably incorrect or irrational basis’ or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence.” Cap. Fin. Co. of Del. Valley, Inc., v. Asterbadi, 398 N.J. Super 299, 310 (App. Div. 2008) (quoting D’Atria v. D’Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Here, no question exists that the Commissioner “failed to appreciate, the significance of probative, competent evidence” or based the decision on a “palpably incorrect or irrational basis” as seen by the conflicting statements she made in the Order.

RC accuses CALSTART of repeating its initial argument in the motion for intervention. RC’s assertion is untrue and unsubstantiated. Nowhere does RC address one of the major issues of the denial order – and one of the key issues CALSTART addressed in the Motion for Reconsideration. This issue centers on the quote from the Commissioner stating that “CALSTART has a significant interest in this proceeding.” Saying this, and then deciding that CALSTART should not be granted intervenor status because it does not have a sufficient interest is a case where the finder of fact “failed to appreciate, the significance of probative, competent evidence” based upon the inherent disagreement from one sentence to the next.

This is not a rehash of the motion for intervention. The Commissioner had not made this statement prior to the submission of the initial motion for intervention, so citing to this conclusion as a basis for reconsideration is a new, material argument that has been appropriately raised by CALSTART on reconsideration. Similarly, RC’s insistence on simply

repeating the Commissioner's statements from the Order is not a legal argument. The Commissioner failed to address the nature of CALSTART's interest, the impact this matter would have on the members of CALSTART, and the nature of the information that CALSTART can bring to the proceedings. For example, in the Order, the Commissioner claimed that "CALSTART's members consist of EV service equipment providers which will receive direct financial benefit through charging depot rates that are not determined by Board-approved ratemaking proceedings. CALSTART's members therefore stand to gain from this proceeding so long as any aspect of PSE&G's MHD EV program is approved." This is incorrect, as CALSTART's members may very well be unable to do business in New Jersey, based on the electricity rates that will be determined by the Board in this very proceeding.

Likewise, when the Commissioner stated that "CALSTART does not establish a clear link between the outcomes of this particular proceeding, the only MHD EV proceeding in the State in which CALSTART has moved to intervene, and any direct increase or reduction in the ability of its members to do business in the State," the Commissioner failed to recognize that CALSTART's member are entities seeking to become PSE&G customers with charging facilities, taking the utility rates to be designed and approved in this proceeding. Again, CALSTART's members have the most to gain or lose in this proceeding; not the least or none. RC likewise fails to address the substance of these assertions by CALSTART, and fails to recognize that these statements, and the lack of correlation to the actual state of CALSTART's interests, represents a "palpably incorrect or irrational basis" for denial of intervention status, rendering the decision arbitrary and capricious, or at a minimum, indicating that the Commissioner failed to consider or appreciate competent evidence.

What's more, RC continues to claim that "the interests of suppliers and customers in New Jersey's MHD EV program are not directly at issue in this matter." RC Letter Filing, at 5. Yet the very purpose of this proceeding is to examine PSEG's proposal to spend and recover, through rates, in excess of \$40 million. Customers of the New Jersey MHD EV program will pay these rates. The interests of customers in New Jersey could not be more at issue.

Accordingly, CALSTART reasserts its claim that the failure to allow CALSTART to intervene in this matter was an error such that the full Board, or the new presiding Commissioner in this matter, should allow CALSTART to effectively and substantially engage with the matter through the granting of full Intervenor status, as set forth in CALSTART's motion papers.

Very truly yours,

Kenneth J. Sheehan

KJS/lb



August 25, 2025

via eFiling
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Re: **Answer in Support of CALSTART's Motion for Reconsideration (BPU Docket No. QO25020101)**

Dear Secretary Golden:

Please accept for filing this answer in support of CALSTART's August 15, 2025 motion for reconsideration in the above-captioned matter. We represent the Environmental Parties: the Sierra Club, New Jersey Progressive Equitable Energy Coalition, Environment New Jersey, Isles, Inc. and Environmental Defense Fund. This motion is being filed electronically. Thank you for your consideration and attention to this matter.

Sincerely yours,

A handwritten signature in black ink that reads "Kaitlin Morrison". The signature is fluid and cursive, with the first name "Kaitlin" and last name "Morrison" clearly distinguishable.

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Cc: service list, *via* email

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IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC & GAS COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ELECTRIC VEHICLE MEDIUM HEAVY-DUTY PROGRAM ON A REGULATED BASIS	STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES DIVISION OF ENERGY AND OFFICE OF CLEAN ENERGY BPU DOCKET NO. QO25020101
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**ENVIRONMENTAL PARTIES' ANSWER IN SUPPORT OF CALSTART INC.'S MOTION FOR
RECONSIDERATION**

INTRODUCTION

The Sierra Club, New Jersey Progressive Equitable Energy Coalition (NJPEEC), Environment New Jersey, Isles, Inc. (Isles), and Environmental Defense Fund (EDF) (collectively, Environmental Parties), which are parties in this matter, hereby file this answer in support of CALSTART Inc.'s (CALSTART's) motion for reconsideration of Commissioner Abdou's July 31, 2025 Order denying intervention in the above-captioned proceeding.

Liberal intervention into proceedings before the Board of Public Utilities is critical to ensure that the Board has access to a wide array of information and viewpoints, and is able to craft the best possible decisions. Environmental Parties have experience with CALSTART's work on medium and heavy duty electric vehicle matters and utility program design, and can attest to the thoughtfulness and

constructiveness of its contributions. Particularly given the absence of any other intervenor with comparable alignment with the impacted industry, Environmental Parties urge the Board to grant the motion and allow CALSTART to intervene.

STANDARD OF REVIEW

N.J.A.C. 14:1-8.6 provides that “A motion for rehearing, reargument, or reconsideration of a proceeding may be filed by any party within 15 days after the effective date of any final decision or order by the Board.” Answers must be filed within 10 days following service of the motion and “[f]ailure to file an answer shall be deemed to be a waiver of any objection to the granting of the motion.” N.J.A.C. 14:1-8.7(b). The Board has held that “reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis” or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. The moving party must show that the action was arbitrary, capricious, or unreasonable.”¹

The underlying intervention standard to be applied by the Board provides that “[a]ny person or entity not initially a party . . . who will be specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.” N.J.A.C. 1:1-16.1. When ruling on this motion, the Board must consider, along with any other appropriate matters: (1) the nature and extent of the moving party’s interest in the outcome of the case;² (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, and (3) the prospect for confusion or undue delay arising from including the party. N.J.A.C. 1:1-16.3(a).

¹ In the Matter of the Medium and Heavy Duty Electric Vehicle Charging Ecosystem, Order Denying Motion for Reconsideration, BPU Docket No. QO21060946 at 7 (Feb. 12, 2025) (citing Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996); D’Atria v. D’Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)).

² As CALSTART is best positioned to describe the nature and extent of its interests in this matter, this answer will focus on the second two prongs of the intervention test.

ARGUMENT

A. CALSTART's interests in this proceeding are different from Environmental Parties and analogous to prior permitted intervenors

CALSTART's interests in this proceeding are distinct from Environmental Parties. CALSTART is a clean-transportation focused non-profit that is closely aligned with industry participants through its members, including operators of charging depots. Environmental Parties are nonprofit environmental and energy organizations, community organizations, and Black- and Brown-led organizations working to advance vehicle electrification and environmental justice in New Jersey and seeking to protect the health, environmental, equity, and economic interests of its members. Environmental Parties are collectively focused on a broad suite of environmental and equity issues, and do not represent any direct participants in the market to be created by this program.

The nature of CALSTART's interest and expertise is analogous to that of other groups who have regularly been granted intervention before the BPU concurrently with Environmental Parties, including trade associations and energy user coalitions. The combination of an energy policy mission with connection to industry, makes CALSTART akin to a trade association such as the Energy Efficiency Alliance-New Jersey (EEA-NJ), which represents the collective interests of their members and regularly intervenes in BPU proceedings.³ In the Triennium 2 Proceedings, for example, President Guhl-Sadovy granted EEA-NJ's intervention over Rate Counsel's objection, finding that

EEA-NJ represents more than 60 business members directly involved in the planning and implementation of EE programs in New Jersey. Additionally, EEA-NJ constructively participated in numerous Triennium 1 proceedings and has a direct interest in the outcome of this matter because its constituent members specifically design and implement EE programs throughout New Jersey. EEA-NJ is expected to add constructively to this proceeding via input gleaned from its extensive experience with EE programs specific to New Jersey.⁴

³ As a mission-based nonprofit, CALSTART's interests go beyond that of its individual members, unlike a trade association, as discussed further in its papers.

⁴ In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Clean Energy Future-Energy Efficiency II (CEF-EE II) Program On A Regulated Basis, Order Ruling on the Motions to Intervene or Participate at 12, BPU Docket No. Q023120874 (Feb. 26, 2024).

Similarly, CALSTART has business members that will be directly involved in building out the infrastructure at issue in these proceedings and impacted by the rates set in this proceeding, and has already been involved through submitting comments in the development of this docket⁵ and serving as a fleet advisor for DEP.⁶ CALSTART's members will be large customers on the rates set by these programs, and that aspect of their interests can also be compared to the collective interests represented by the New Jersey Large Energy Users Coalition (NJLEUC), another entity regularly granted intervention before the Board.

By contrast, the Board has denied intervention to individual businesses with purely self-serving economic interests. In the Triennium 2 energy efficiency proceedings, for example, the Board denied intervention to companies such as Convergent, CPower, Uplight, and Google, because their interests were limited to expanding business opportunities in New Jersey and not meaningfully different from other participants.⁷ Of course, the Board must reasonably draw the line on balancing a diversity of perspectives and a complete record with efficiency of proceedings.⁸ But CALSTART is not an individual business with

⁵ In the Matter of the Medium and Heavy Duty Electric Vehicle Charging Ecosystem, Comments of CALSTART and Environmental Defense Fund, BPU Docket No. QO21060946 (Jan. 24, 2023).

⁶ In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Clean Energy Future-Electric Vehicle Medium Heavy-Duty ("CEF-EV MHD") Program On A Regulated Basis, Order on Motions to Intervene or Participate at 3, BPU Docket No. QO25020101 (July 31, 2025) (July 31 Order).

⁷ In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Clean Energy Future-Energy Efficiency II (CEF-EE II) Program On A Regulated Basis, Order Ruling on the Motions to Intervene or Participate at 12-14, BPU Docket No. Q023120874 (Feb. 26, 2024).

⁸ I/M/O the Petition of New Jersey-American Water Company, Inc. for Approval of Proposed Cost Recovery of Lead Service Replacement Plan, Prehearing Order and Order Ruling on Motion to Intervene at 3, BPU Docket No. WR22010017 (May 27, 2022). Environmental Parties are also concerned with avoiding delays to implementation of the MHD EV program, and have urged the Board to act expeditiously in this matter.

a purely economic motive,⁹ nor are there other similar entities with relationships to industry that have intervened here.

B. CALSTART is likely to add measurably and constructively to the scope of the case

Based on Environmental Intervenor’s prior experience with CALSTART’s work, we believe that they will add measurably and constructively to the scope of the case, which will benefit the parties and Board in its decisionmaking. CALSTART regularly engages with utility commissions and has been granted party status in several states and submitted expert comments in MHD EV dockets and utility program design.¹⁰ Rate design is an area of PSE&G’s program that Environmental Parties have identified as important for the success of the program and in critical need of review and improvement, and CALSTART represents that it will file testimony on this issue.¹¹

Environmental Parties would find testimony and data from CALSTART on rate design and related issues to be particularly useful to the parties and Board. Improvements in rate design will increase the speed and effectiveness of MHD EV infrastructure deployment—an outcome that CALSTART, Environmental Parties, and the Board all seek. Environmental Parties believe that based on its unique

⁹ The basis of the July 31 Order appears to be that CALSTART did not have a “sufficiently great” interest to warrant inclusion as an intervenor, because CALSTART apparently did not demonstrate a “direct increase or reduction in the ability of its members to do business in the State” and because some of its members already do business in the State. The July 31 Order also stated that CALSTART’s members “will receive direct financial benefit through charging depot rates that are **not** determined by Board-approved ratemaking proceedings.” (emphasis added). The “not” in that sentence appears to be a typo.

¹⁰ See, for example, CALSTART’s recent comments filed as a party in the New York Medium and Heavy Duty Vehicle Proactive Proceedings before the New York Public Service Commission, Case No. 24-E-0364 (filed March 31, 2025), available at <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b103F1096-0000-C430-BFB8-6EEF0E1A60D8%7d>. EDF worked with CALSTART to file comments in this docket, and regularly works alongside CALSTART in the California Public Utility Commission’s transportation electrification dockets. E.g., Order Instituting Rulemaking to Modernize the Electric Grid for a High Distributed Energy Resources Future, Opening Comments of CALSTART, Inc. on Staff Proposal for the High DER Proceeding, Rulemaking 21-06-017 (May 28, 2024), available at <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M532/K262/532262611.PDF>.

¹¹ In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Clean Energy Future-Electric Vehicle Medium Heavy-Duty (“CEF-EV MHD”) Program On A Regulated Basis, CALSTART, Inc.’s Motion For Reconsideration To The Full Board Of The Single Commissioner Order Denying Intervention But Allowing Participation, BPU Docket No. Qo25020101 at P 30-31, 38 (Aug. 15, 2025).

interests and expertise, CALSTART will add measurably and constructively to the scope of the case, to the benefit of all parties in making improvements to the program, and to the Board in its decisionmaking.

C. Environmental Intervenors' experience supports CALSTART's claim that they will not cause any confusion or undue delay

The July 31 order made no finding that CALSTART's intervention would cause confusion or undue delay, and instead acknowledged that CALSTART's participation would not have that effect. Environmental Parties have worked alongside CALSTART in other proceedings and can attest that its engagement is consistently timely, focused, and constructive. There is no basis to conclude otherwise here, and this factor weighs in favor of granting intervention.

CONCLUSION

CALSTART's interests in this matter are distinct from that of Environmental Parties, and it is likely to add measurably and constructively to develop the record before the Board. There is no basis on which to find that CALSTART's intervention would cause confusion or undue delay. For all of the reasons above, Environmental Intervenors urge the Board to reconsider the July 31 Order and grant CALSTART intervenor status.

Date: August 25, 2025

Respectfully Submitted,

/s/ Kaitlin Morrison

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CERTIFICATION OF SERVICE

I hereby certify that I have on this day filed with the Board of Public Utilities and served by electronic mail a copy of the foregoing Motion for Intervention on all parties on the service list.

Date: August 25, 2025

Respectfully Submitted,

/s/ Kaitlin Morrison

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IMO the Petition of Public Service
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August 25, 2025

Via Electronic Mail

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Re: NJDRC Response to Motion For Reconsideration by CALSTART

**In the Matter of the Petition Public Service Electric and Gas Company for
Approval of its Clean Energy Future-Electric Vehicle Medium and Heavy
Duty ("CEF-EV MHD") Program on a Regulated Basis**

BPU Docket No. QO25020101

Dear Secretary Lewis:

Please accept for filing this response from the New Jersey Division of Rate Counsel ("Rate Counsel") to the Motion for Reconsideration ("Motion for Reconsideration") filed by CALSTART, Inc. ("CALSTART"), dated August 15, 2025. By Order dated July 31, 2025, Commissioner Marian Abdou of the New Jersey Board of Public Utilities ("Board" or "BPU"), denied CALSTART's Motion to Intervene in the above referenced matter because CALSTART does not have a statutory right to intervene and did not demonstrate that it would be significantly, directly, and substantially impacted by the outcome of these proceedings. See In the Matter of the Petition Public Service Electric and Gas Company for Approval of its Clean Energy Future-Electric Vehicle Medium and Heavy Duty ("CEF-EV MHD") Program on a Regulated Basis,

BPU Docket No. QO25020101, (Order, dated July 31, 2025) pp. 4-5. For the reasons stated more fully herein, CALSTART's Motion for Reconsideration should respectively be denied.

DISCUSSION

N.J.S.A. 48:2-40(e) provides that the Board may at any time revoke or modify an order made by it. See Twp. of Deptford v. Woodbury Terrace Sewerage Corp., 54 N.J. 418, 428 (1969); see also N.J.A.C. 14:1-8.6(b).¹ Nevertheless, “[r]econsideration cannot be used to expand the record and reargue a motion.” Cap. Fin. Co. of Del. Valley, Inc. v. Asterbadi, 398 N.J. Super. 299, 310 (App. Div. 2008)(quoting D’Atria v. D’Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990)). “A litigant should not seek reconsideration merely because of dissatisfaction with a decision of the [c]ourt.” Id. Reconsideration is reserved for those cases where (1) the decision is based upon a “palpably incorrect or irrational basis” or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. Id.

To succeed on a motion for reconsideration, the moving party must show that the action was “arbitrary, capricious, or unreasonable.” D’Atria, 242 N.J. Super. at 401. The Board “will not modify an Order in the absence of a showing that the Board’s action constituted an injustice or that the Board failed to take notice of a significant element of fact or law.” In the Matter of the Implementation of L. 2012, c. 24 The Solar Act of 2012, Docket No. EO12090832 (July 19, 2013) at 5; see also In the Matter of Michael Manis and Manis Lighting, LLC - New Jersey Clean Energy Program Renewable Energy Incentive Program, Docket No. QS14040316 (April 15, 2015).

¹ N.J.A.C. 14:1-8.6 requires that a request for rehearing or reconsideration be done by a motion that enumerates the alleged “errors of law or fact” upon which the Board relied in rendering its decision. Additionally, where an opportunity is sought to introduce additional evidence, that evidence shall be stated briefly with the reasons for failing to provide it previously. See N.J.A.C. 14:1-8.6(a)(2).

CALSTART's Motion For Reconsider Should Be Denied, Because The Order Is Not Arbitrary, Capricious Or Unreasonable, And Should Be Upheld.

Here, CALSTART does not demonstrate that the relevant Order is arbitrary, capricious or unreasonable. Instead, CALSTART merely reargues its prior Motion to Intervene, claiming that the Order misapplied the standard for intervention. See Motion for Reconsideration, at pp. 5-16 (citations omitted).

In determining whether CALSTART satisfied the standards for intervention as a party, Commissioner Abdou followed the requirements of N.J.A.C. 1:1-16.3(a) to consider:

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. Order, at pp. 4-5 (citing N.J.A.C. 1:1-16.3(a)).

Commissioner Abdou also applied the same balancing test in addressing intervention of a party as CALSTART outlines in their Motion to Reconsider:

As the Board noted in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record that 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 best interest be specific, direct, and different from that of the other parties to the proceeding so as to add measurable and constructively to the scope of the case. Order, at p. 4 (citation omitted); Motion for Reconsideration, pp. 6-7 (citations omitted).

In applying these standards, Commissioner Abdou rejected CALSTART's argument that its members will be "directly affected by the outcomes of this proceeding because a Board decision 'may establish requirements and practices that affect the operation of the MHD-EV-related industry in the State and its members' ability to do business in the MHD EV sector."

Order, at p. 5.² Commissioner Abdou concluded that this identified interest “does not establish a clear link between the outcomes of this particular proceeding, the only MHD EV proceeding in the State in which CALSTART has moved to intervene, and any direct increase or reduction in the ability of its members to do business in the State.” Id., at p.5.

“Additionally, many of its members already have ‘numerous projects under development’ in the State not concerned by the outcome of this proceeding and which therefore do not stand to suffer any harm or benefit therefrom.” Id. (quoting CALSTART Motion for Intervention at 5). Further, because CALSTART’s members “stand to gain from this proceeding **so long as any aspect** of PSE&G’s MHD EV program is approved,” CALSTART has not identified an interest that is not adequately represented by PSE&G. Id. (emphasis added).

Rather than address these shortcomings in their Motion for Intervention, CALSTART claims the Board focused too much on CALSTART’s lack of a substantial and direct interest in the outcome of this proceeding. See Motion for Reconsideration, at pp. 5-11. Instead, CALSTART argues greater weight should be given to CALSTART’s expertise in representing the interests of suppliers and customers in New Jersey’s MHD EV program. Id. at pp. 11-15.

CALSTART also claims that its members are “impacted from rates under the Board’s supervision, approval and control.” Id., at ¶22. CALSTART provides no new information in its Motion for Reconsideration on how it or its members will be directly and substantially affected by the outcome of this particular MHD EV matter of a utility company. Id., at pp. 7-9. On this basis alone, CALSTART’s Motion for Reconsideration should be denied. CALSTART’s

² Rate Counsel notes that if the Board does establish rules not already in effect that are of general applicability and that implement or interpret law or policy requirements on the operation of the MHD-EV-related industry, then a further rule making proceeding pursuant to N.J.S.A. 52:14B-2(e); and Metromedia, Inc. v. Div. of Taxation, 97 N.J. 313, 329-31, (1984) is likely required and will present CALSTART with another opportunity to express their concerns and participate meaningfully.

attempts to reframe or recharacterize its members' interests in the instant proceeding only undermine its argument to intervene as a party rather than a participant.

CALSTART Fails To Demonstrate That It Or Its Members' Interests Will Be Substantially, Specifically, And Directly Affected By The Outcome Of This Particular Matter And, Thus, Their Motion To Intervene As A Party Was Correctly Decided.

The primary consideration under N.J.A.C. 1:1-16 for intervention as a party is the nature and extent of the party's interest in the outcome of the matter before the Board. See I/M/O Petition Of Public Service Electric And Gas Company For Approval Of The Secondary Energy Strong Program (Energy Strong II), Docket Nos. E018060629 and G018060630, (Order dated November 30, 2018), pp. 15-17. Intervention as a party under N.J.A.C. 1:1-16 is reserved for those who can demonstrate that they will be substantially, specifically, and directly affected by the outcome of the case. Id. If other requirements for intervention are met but the party does not demonstrate a substantial, specific, and direct impact to it based on the outcome of the matter, then N.J.A.C. 1:1-16.5 and 16.6 allow the party to continue as a participant. Id.

According to CALSTART, it and its members are involved in the commercialization and deployment of advanced EV vehicle technologies, utility tariff design for trucks, zero-emission medium-and-heavy duty vehicles, including with New Jersey State Agencies. Motion for Reconsideration, at pp. 5-9; 11-15. CALSTART and its members "work and operate pursuant to EV programs like the one proposed by PSE&G." Id., at p. 9. As a 501(c)(3) organization, CALSTART states that it has no economic interest in the outcome of these proceedings, but argues that its members do as market participants who are potential providers of MHD EV equipment and/or services to PSE&G MHD customers. Id., at ¶¶ 21, 22, 24.

Initially, Rate Counsel notes that the interests of suppliers and customers in New Jersey's MHD EV program are not directly at issue in this matter. The matter before the Board is

Secretary Lewis
August 25, 2025

PSE&G's MHD EV plan to expand access to charging for MHD EVs and all EV fleets. See Order, dated July 31, 2025, at p.1.

CALSTART claims, however, that how PSE&G's MHD EV program "is designed, functions, and the utility provides rates and incentives, is a key issue for CALSTART and its members." Id., at ¶22. According to CALSTART, any rate decisions "such as the ones at play in this matter, directly impact the ability of CALSTART's members to participate and succeed in the State['s][EV program]." Id., at ¶20.

The Board has previously found the attenuated interests of customers and market participants such as CALSTART's members are insufficient to support party status under N.J.A.C. 1:1-16. See I/M/O Middlesex Water Company For Approval Of An Increase In Its Rates For Water Service And Other Tariff Changes, And For An Order Authorizing Special Accounting Treatment Of Income Tax Refund Proceeds And Future Income Tax Deductions, Docket No. WR17101049, (Order dated January 13, 2018), p. 6 (N.J. American Water Company's claimed purpose of intervening to protect the interests of its customers did not establish outcome of matter would "substantially, specifically and directly" affect them to support intervention as a party under N.J.A.C. 1:1-16); see also I/M/O the Petition of Public Service Electric and Gas Company For Approval of Its Clean Energy Future-Energy Cloud ("CEF-EC") On A Regulated Basis, Docket No. EO18101115, (Order dated April 1, 2020), p. 13 (Market participants denied party status as intervenors under N.J.A.C. 1:1-16, because participants did not demonstrate that the outcome of the proceeding before Board would "substantially, specifically, and directly" affect them).

Notably, CALSTART participated fully in comments that were already considered by the Board in its October 2024 MHD Ecosystem Order. See generally, I/M/O Medium And Heavy

Duty Electric Vehicle Charging Ecosystem, Docket No. QO21060946, (Order dated October 23, 2024). Thus, CALSTART's and its members' interests in New Jersey's MHD EV program, including policies and supporting rate design have already been addressed. CALSTART fails to demonstrate how its members will be substantially, specifically, and directly affected by the Board's decision in this particular matter – whether the decision is favorable or not. Accordingly, CALSTART's Motion for Reconsideration should be denied and the Order upheld.

CALSTART's Economic Interests Alone Are Insufficient For Party Standing

CALSTART also claims the Board was “in some manner” swayed by Rate Counsel's argument that CALSTART's interest in this case is “purely economic.” See Motion for Reconsideration, at pp. 9-11. Significantly, CALSTART acknowledges that it is “nowhere stated in the Commissioner's Order” that it made its decision based on Rate Counsel's arguments. Id., at p. 9. Indeed, the Board found, and Rate Counsel did not object, to intervenor/participants Atlantic City Electric Company, Jersey Central Power & Light Company, and Rockland Electric Company (the “Joint Utilities”) roles as participants rather than parties based on their economic interests. Order, at p. 5. CALSTART appears to misunderstand both Rate Counsel's argument and the relevant ORDER from BPU on this issue.

While CALSTART has expressed interest in influencing the outcomes of New Jersey's MHD EV program and potentially other incentive and tariff structures, they are not themselves initiating a separate MHD EV program. Rather, it is because CALSTART and its members have only a tangential economic interest in the outcome of this matter as market participants that they cannot support intervention as a party under N.J.A.C. 1:1-16. Thus, the Order denying CALSTART party status is correct and should not be disturbed.

CALSTART And Its Members' Interests Are Protected As Participants Under The Order

CALSTART claims the failure to grant it party status will somehow deprive the Board, ratepayers, the utilities, and all the parties of a full and complete hearing. Id., at ¶4. CALSTART claims its members have a significant interest in the policies that will be discussed, determined and ultimately decided by this matter. Id., at ¶22. As a participant, CALSTART will be able to argue for its position, file statements and briefs, and file exceptions. Order, at p. 5 (citing N.J.A.C. 1:1-16.6(c)). CALSTART will be able to protect and advance the stated interests of its members as a participant. Accordingly, CALSTART's and its members' interests are adequately protected by the Board's current Order.

CONCLUSION

The Order correctly found that CALSTART's interests in these proceedings are insufficient to grant party status under N.J.A.C. 1:1-16.3, but sufficient enough to grant participant status under N.J.A.C. 1:1-16.5 and 1-16.6. The Order should stand, and CALSTART's Motion for Reconsideration be denied.

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c: Service List

IMO the Petition of Public Service
Electric and Gas Company
for Approval of its Clean Energy
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BPU Docket No. OO25020101

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