



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

**DIVISION OF ENERGY AND**  
**OFFICE OF CLEAN ENERGY**

IN THE MATTER OF THE PETITION OF PUBLIC )  
SERVICE ELECTRIC AND GAS COMPANY )  
OFFERING AN ENERGY EFFICIENCY )  
ECONOMIC STIMULUS PROGRAM IN ITS )  
SERVICE TERRITORY ON A REGULATED )  
BASIS AND ASSOCIATED COST RECOVERY )  
MECHANISM PURSUANT TO N.J.S.A. 48:3-98.1 )

**ORDER GRANTING  
INTERVENTION**

**DOCKET NO. EO09010058**

**(SERVICE LIST ATTACHED)**

**BY PRESIDENT JEANNE M. FOX:**

On January 21, 2009, Public Service Electric and Gas Company ("PSE&G" or "the Company") submitted a petition for approval to implement and administer an Energy Efficiency Program ("Energy Efficiency Program") in response to Governor Corzine's Economic Stimulus Plan and for approval of an associated cost recovery mechanism. According to the petition, the Energy Efficiency Program would stimulate the economy by lowering customers' energy bills and stimulating job creation, as well as addressing climate change and assisting the State in achieving its energy reduction goals. The petition describes a program consisting of eight "sub-programs" which would target specific energy efficiency measures to specific customer segments. PSE&G estimates total project expenditures over a two-year period of approximately \$190 million. The Company anticipates that this program will generate additional jobs for auditors, contractors, and contractor employees and will provide more detailed information when available.

The Company proposes recovering the costs associated with the program through two new Energy Efficiency Program charges, to be components of the Company's electric and gas Regional Greenhouse Gas Initiative ("RGGI") Recovery Charges. As envisioned by the petition, these charges would be filed annually. The Company's investments in the program would be subject to deferred accounting and the carrying charge on the Company's deferred balances and the return on the net investment for this Program would be set based upon

PSE&G's monthly weighted average cost of capital ("WACC"). The WACC would be set to reflect current capital market conditions, including a 10.3% return on equity. The Company also seeks recovery of lost distribution margin revenues associated with this filing.

By Order dated February 19, 2009, the Board determined that this matter should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated the undersigned as the presiding officer who is authorized to rule on all motions that arise during the proceeding and modify any schedule that may be set as necessary to secure just and expeditious determination of the issues

By letter dated April 28, 2009, DAG Robert J. Shaughnessy filed a motion to intervene in this proceeding on behalf of the New Jersey Housing and Mortgage Finance Agency ("HMFA" or "Agency"). According to the motion, HMFA is a New Jersey agency which is a primary source of financing for the construction and permanent financing of multi-family rental housing and for the rehabilitation and improvement of adequate and affordable housing for New Jersey residents of low and moderate income. HMFA is empowered to provide advisory, consultation, training and educational services to assist in the planning, construction, rehabilitation and operation of housing. The motion also states that HMFA has a portfolio of over four hundred multi-family housing projects that serve low and moderate income residents and have benefited from HMFA financing. In addition, HMFA includes the Green Homes Office which has a specific goal of creating programs, resources and building guidelines which can make New Jersey a leading example of resource efficient, healthy, and costs conscious residential new construction and rehabilitation. HMFA alleges that by virtue of its statutory mission and what it characterizes as its position as the primary source of financing for affordable housing in the State, it has a significant interest in the outcome of PSE&G's petition and in particular in PSE&G's Residential Multi-Family Sub-Program. As described in the petition, this program will target affordable and market rate multi-family buildings.

HMFA acknowledges that its motion is out of time. HMFA originally sent a letter attempting to intervene informally within the time allowed for intervention by the schedule adopted in this matter. After being alerted to the proper procedures for intervening pursuant to N.J.A.C. 1:1-16.1 et seq., the Agency pursued the internal processes necessary for obtaining approval to intervene in this matter. Actions by HMFA are subject to a ten business day veto period by the Governor. N.J.S.A. 55:14K-4(o). As a result, this motion was filed untimely, well after the March 6, 2009 deadline established in the procedural schedule for this matter. However, the Agency alleges that its intervention will not delay or otherwise disrupt this proceeding since its interest is limited to the Residential Multi-Family Sub-Program and since members of HMFA staff have "engaged in numerous meetings and communications with PSE&G regarding this sub-program already," and Agency staff is familiar with the substance of the petition, obviating the prospect of confusion or delay. HMFA further commits that it will work cooperatively with PSE&G and the Board to promote administrative efficiency should intervention be granted.

On May 1, 2009, PSE&G filed a response to the motion objecting that granting the untimely motion would jeopardize the established procedural schedule. PSE&G argued that if HMFA is required to comply with the internal processes it had itemized as the reason for the delay in filing its motion before signing any settlement agreement, those processes alone would delay the signing of any settlement agreement and its presentation to the Board by several weeks. PSE&G did not object to granting HMFA participant status.

No other responses to the motion to intervene were received.

On May 8, 2009, HMFA filed an answer to PSE&G's reply to its motion. HMFA states that it would take the following actions to avoid the possibility of undue delay. At its next Board meeting on May 21, 2009, the Agency will seek a delegation of authority to its executive director to enter into a settlement agreement upon terms and conditions acceptable to HMFA staff subject to approval by the Office of the Attorney General. Allowing for the time required for the Governor's veto option on an agency action, such delegation would become effective on June 5, 2009, prior to the anticipated date for Board action upon this filing, June 9, 2009. In the event a settlement is reached sooner, HMFA commits to calling a special meeting of the HMFA Board to seek approval to enter into a settlement agreement upon the conditions noted above. HMFA represents that approval of a settlement agreement could be accomplished in thirteen business days.

On May 8, 2009, PSE&G withdrew its objection to HMFA's motion on the basis of the representations made in HMFA's letter of that date.

### FINDINGS and DISCUSSION

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. the nature and extent of the moving party's interest in the outcome of the case;
2. whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. the prospect for confusion and delay arising from inclusion of the party, and
4. other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

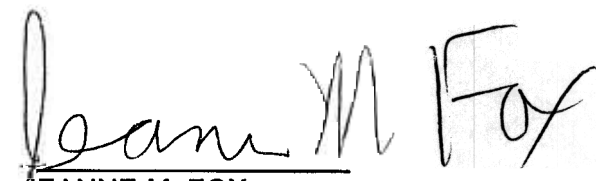
As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an 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, Order, I/M/O the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

Based on my review of HMFA's motion to intervene, PSE&G's reply and HMFA's response, I FIND that HMFA has an interest that is sufficiently different from any other party, and that adding HMFA as a party will add measurably and constructively to the scope of the case, and therefore HEREBY GRANT the motion, provided that HMFA complies with the schedule adopted for these proceedings on February 25, 2009 and commits to working cooperatively, to the fullest extent possible, with the other parties.

This ruling is provisional and subject to ratification or other alteration by the Board as it deems appropriate during the proceeding in this matter.

DATED: 5/14/09

BY:

  
JEANNE M. FOX  
PRESIDENT

I/M/O ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST  
RECOVERY MECHANISM PROCEEDINGS  
BPU DOCKET NO. E009010056

And

I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY  
OFFERING AN ECONOMIC ENERGY EFFICIENCY STIMULUS PROGRAM IN ITS  
SERVICE TERRITORY ON A REGULATED BASIS AND FOR ASSOCIATED COST  
RECOVERY MECHANISM PURSUANT TO N.J.S.A. 48:3-98.1  
BPU DOCKET NO. GO09010058

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