



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

ENERGY DIVISION

In the Matter of the Petition of New Jersey Large  
 Energy Users Coalition for a Generic Proceeding to  
 Consider Mitigating the Impact of Utility Surcharges  
 on Large Commercial and Industrial Consumers for  
 Programs Authorized Pursuant to Section 13 of the  
 Regional Greenhouse Gas Initiative Law N.J.S.A.  
48:3-98.1 et. seq.

PROVISIONAL  
 PREHEARING ORDER

DOCKET NO. EO09100883

(SERVICE LIST ATTACHED)

BY COMMISSIONER JEANNE M. FOX:

On October 30, 2009, the New Jersey Large Energy Users Coalition ("NJLEUC") petitioned the Board of Public Utilities ("Board") to initiate a generic proceeding to establish one or more alternative cost recovery mechanisms to mitigate the alleged financial impact on large commercial and industrial ("C&I") energy consumers of surcharges imposed to fund utility programs authorized pursuant to Section 13 of the Regional Greenhouse Gas Law, N.J.S.A. 48:3-98.1 et seq. (the "RGGI Law"). On January 20, 2010, the Board directed Staff to convene all interested parties to determine a procedural framework for this generic proceeding. On February 11, 2010, the Board designated Commissioner Jeanne M. Fox as presiding Commissioner in this matter, and authorized Commissioner Fox to preside over evidentiary hearings, set or modify the procedural schedule, decide upon motions, and otherwise control the conduct of this case without the need for further Board approval, subject to subsequent Board ratification.

After notice to all known interested entities, a prehearing conference was held on April 19, 2010, at 11:00 a.m. attended by NJLEUC, representatives from Public Service Electric & Gas Company ("PSE&G"), Jersey Central Power & Light Company ("JCP&L"), Rockland Electric Company ("RECO"), Atlantic City Electric Company ("ACE"), Elizabethtown Gas Company ("ETG"), New Jersey Natural Gas Company ("NJNG"), South Jersey Gas Company ("SJG"), Gerdau Ameristeel Corporation ("Gerdau"), the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and Board Staff. At that prehearing conference, the issues set forth in N.J.A.C. 1:1-13.2 were discussed, and all parties in attendance agreed upon a proposed schedule, subject to Board approval and availability.

Upon consideration of the positions put forth at the conference, I HEREBY FIND the following:

**1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:**

This matter involves a petition for a generic proceeding to explore and determine the appropriateness of alternative cost recovery mechanisms to potentially mitigate the financial impact on large C&I energy consumers of RGGI Law surcharges. At the prehearing conference, the Parties agreed that this matter should proceed in separate phases. The first phase shall be more akin to a stakeholder process, where the Parties will have an opportunity to submit in the record information regarding the available options for alternative cost recovery, the impacts associated with alternative cost recovery, and the experiences of other states. Upon completion of this phase, the Parties shall reconvene to determine the procedural framework for the second phase of this proceeding.

**2. PARTIES AND ATTORNEYS OR REPRESENTATIVES:**

To date, only Gerdau has requested intervention. All of the electric and gas utilities, except for PSE&G, agreed to seek to intervene in this matter. It is expected that they will request intervention before the intervention deadline.

**3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

NJLEUC has circulated a notice of the filing of this petition, along with proposed dates for intervention, to all known interested parties. Additionally, it is HEREBY ORDERED that this prehearing Order be posted on the Board's website as soon as possible.

**4. SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Due to the nature of this proceeding, no hearing dates are being set at this time. After completion of the first phase of this proceeding, a second prehearing conference will be held to determine hearing dates, time and places.

**5. STIPULATIONS:**

Stipulations among the parties are encouraged, but at this time, no stipulations have been entered in this matter.

**6. SETTLEMENT:**

Settlement conference(s) among all of the parties are encouraged and may be convened at the convenience of all the parties without prior approval or knowledge of the Board.

**7. AMENDMENTS TO PLEADINGS:**

No amendments to pleadings are currently expected.

**8. CASE EVENTS AND DATE FOR COMPLETION:**

The parties in attendance at the prehearing conference agreed upon the following schedule, with the understanding that a second prehearing conference will be held to determine the procedural framework of the second phase of this proceeding:

Requests for Intervention / Pro Hac Vice	May 21, 2010
Objections to Requests for Intervention / Pro Hac Vice	May 28, 2010
Responses to Objections to Requests for Intervention / Pro Hac Vice	June 4, 2010
Discovery	On-going basis
Memorandums regarding surcharges in general	July 1, 2010
Initial NJLEUC Affidavits providing detailed description of different approaches for cost allocation	August 2, 2010
Responses to NJLEUC proposals and/or additional approaches from other Parties for cost allocation	October 1, 2010
Status Conference (tentative)	October 21, 2010

**9. ORDER OF PROOFS:**

To be determined.

**10. EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

**11. EXHIBITS MARKED IN EVIDENCE:**

None at this time.

**12. ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES:**

At this time, it is unclear the number of fact and expert witnesses.

**13. MOTIONS CONTEMPLATED, PENDING OR GRANTED:**

Other than motions for pro hac vice and intervention, no other motions are contemplated at this time.

**14. OTHER SPECIAL MATTERS:**

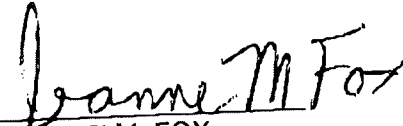
None at this time.

Therefore, upon consideration of the forgoing, this prehearing order is HEREBY ISSUED.

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

DATED: 5.6.10

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
COMMISSIONER