



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY AND ENERGY

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 ) DOCKET NO. QO23120874

**Parties of Record:**

**Brian O. Lipman, Esq.**, Director, New Jersey Division of Rate Counsel  
**Stacey M. Mickles, Esq.**, Counsel for Public Service Electric and Gas Company  
**John Kolesnik, Esq.**, Counsel for the Energy Efficiency Alliance of New Jersey  
**Steven S. Goldenberg, Esq.**, Counsel for the New Jersey Large Energy Users Coalition  
**Kaitlin Morrison, Esq.**, Counsel for the New Jersey Progressive Equitable Energy Coalition, the Natural Resources Defense Council, and the Sierra Club

BY PRESIDENT GUHL-SADOVY:

**BACKGROUND AND PROCEDURAL HISTORY**

***The New Jersey Clean Energy Act of 2018***

On May 23, 2018, Governor Murphy signed the Clean Energy Act into law ("CEA"). The CEA mandates that New Jersey's electric and gas public utilities increase their role in delivering energy efficiency ("EE") and peak demand reduction ("PDR") programs. The CEA further directs the New Jersey Board of Public Utilities ("Board") to require the electric and gas utilities to reduce customer use of electricity and natural gas in their respective service territories.

Specifically, the CEA directs the Board to require:

(a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and

(b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas

usage in the prior three years within five years of implementation of its gas energy efficiency program.<sup>1</sup>

### ***Triennium 1***

By Order dated June 10, 2020, the Board approved, pursuant to the CEA, utility programs that reduce the use of electricity and natural gas within the utilities' territories.<sup>2</sup> In the June 2020 Order, the Board directed the utilities to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation from July 1, 2021 through June 30, 2024 ("Triennium 1").

By Order dated September 23, 2020, the Board approved a stipulation of settlement authorizing Public Service Electric and Gas Company ("PSE&G" or "Company") to implement its Clean Energy Future-Energy Efficiency ("CEF-EE") Program.<sup>3</sup>

On September 20, 2022, PSE&G filed a letter petition to extend the term of the 10 subprograms of the CEF-EE Program for a nine-month period, October 1, 2023 through June 30, 2024, to align the program with the three-year program cycle authorized by the Board for the other utilities ("Letter Petition"). Additionally, the Letter Petition proposed offering electric CEF-EE programs to PSE&G gas customers who are also Butler Power and Light Company ("Butler") customers during the extension period. By Order dated October 12, 2022, the Board determined that the Letter Petition satisfied the requirement that Butler Electric submit a proposal to deliver EE and PDR programs to Butler customers.<sup>4</sup> In addition, by Order dated May 24, 2023, the Board approved the extension of the term of the 10 subprograms of PSE&G's CEF-EE Program.<sup>5</sup>

### ***Triennium 2***

By Order dated May 24, 2023, the Board directed each electric and gas public utility to propose, for Board approval, EE programs for the second three-year EE program period ("Triennium 2") on or before October 2, 2023, and the Board addressed certain aspects of the Triennium 2

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<sup>1</sup> N.J.S.A. 48:3-87.9(a).

<sup>2</sup> In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020 ("June 2020 Order").

<sup>3</sup> In re the Petition of Public Service Electric and Gas Company for Approval of Its Clean Energy Future-Energy Efficiency ("CEF-EE") Program on a Regulated Basis, BPU Docket Nos. GO18101112 and EO18101113, Order dated September 23, 2020.

<sup>4</sup> In re the Implementation of L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, Butler Electric, BPU Docket Nos. QO19010040 and QO20100684, Order dated October 12, 2022.

<sup>5</sup> In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future – Energy Efficiency ("CEF-EE") Program on a Regulated Basis, BPU Docket Nos. GO18101112 and EO18101113, Order dated May 24, 2023.

framework.<sup>6</sup> By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.<sup>7</sup>

By Order dated September 27, 2023, the Board extended the filing deadline for Triennium 2 petitions from October 2, 2023 to December 1, 2023 and directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by December 8, 2023 and that entities file with the Board any responses to those motions by December 14, 2023.<sup>8</sup> By the September 2023 Order, the Board retained this matter for hearing and, pursuant to N.J.S.A. 48:2-32, designated former Commissioner Mary-Anna Holden as Presiding Commissioner for the PSE&G and Butler filings, authorized to rule on all motions that arise during the pendency of this proceeding, and modify schedules that may be set as necessary to secure a just and expeditious determination of all issues.

By Order dated October 25, 2023, the Board delayed the start of Triennium 2 by six (6) months from July 1, 2024 until January 1, 2025.<sup>9</sup>

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<sup>6</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated May 24, 2023 ("May 2023 Order").

<sup>7</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated July 26, 2023.

<sup>8</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated September 27, 2023 ("September 2023 Order"). The September 2023 Order also directed that any entity wishing to file a motion for admission of counsel, *pro hac vice*, should do so concurrently with any motion to intervene or participate. No entity filed a motion for admission *pro hac vice* in this matter.

<sup>9</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated October 25, 2023. ("October 2023 Order"). The October 2023 Order also extended Triennium 1 through December 31, 2024.

## **DECEMBER 2023 PETITION**

On December 1, 2023, PSE&G filed the requisite petition with the Board ("Petition"). In the Petition, the Company proposed to invest approximately \$3.4 billion in its EE Program over a 30-month period (January 1, 2025 through June 30, 2027).

<b>Category</b>	<b>Sector</b>	<b>Program</b>	<b>Total</b>
Core	Residential	Whole Home	\$401,684,087
		Income Qualified	\$335,091,497
		EE Products	\$286,364,613
		Behavioral	\$44,304,656
	Commercial	Energy Solutions	\$799,093,758
		Prescriptive & Custom	\$639,111,726
		Direct Install	\$318,160,018
Multifamily	Multifamily	\$224,116,297	
Utility-Led		Building Decarbonization	\$221,865,450
		Demand Response	\$27,432,213
		Next Generation Savings	\$27,500,003
Other Portfolio Costs		Capital Cost	\$37,000,000
		Administration	\$17,521,000
		Workforce Development	\$42,965,600
<b>Total</b>			<b>\$3,422,210,918</b>

The Company also indicated that it anticipates invoicing approximately \$42 million in costs to its partner utilities under CEF-EE II to cover costs where PSE&G serves as the lead utility delivering and funding coordinated program offerings to partner utility customers.

To recover the revenue requirement associated with CEF-EE II, PSE&G proposed the introduction of new components, CEF-EE II Components ("CEF-EE IICs"), within its electric and gas Green Programs Recovery Charge ("GPRC"). The CEF-EE IIC components would be applied utilizing a per kilowatt-hour ("kWh") basis for electric rate schedules. Additionally, a per-therm basis would be used for gas rate schedules across all applicable rate schedules. The initial CEF-EE IICs would be established based on estimated revenue requirements of the CEF-EE II from January 1, 2025, to September 30, 2025. Subsequently, adjustments to the CEF-EE IICs components of the GPRC would occur during the Board's annual review, incorporating a true-up for actuals and an estimate of revenue requirements for the upcoming year, consistent with the approach for other Board-approved EE programs.

The maximum program amortization period is proposed to be set at 10 years. Additionally, PSE&G proposed earning a return on its net investment in CEF-EE II. This return would be determined by an authorized return on equity ("ROE") and a capital structure that includes income tax effects. For this Petition, the relevant metric is the weighted average cost of capital ("WACC"), as previously authorized in the Company's 2018 base rate case, with consideration for future potential revisions. PSE&G plans to calculate interest on over and under-recoveries using the interest rate from its commercial paper and/or bank credit lines in the preceding month. In cases where both sources are used, a weighted average will be calculated. If neither source is utilized, the last calculated rate would be applied.

According to the requests in the Petition, a typical residential electric customer of PSE&G, using 740 kWh in a summer month and 577 kWh in an average month (6,920 kWh annually), would initially see a decrease in their average monthly bill of \$0.20, from \$117.48 to \$117.28, or approximately 0.17% [based upon Delivery Rates and Basic Generation Service-Residential Small Commercial Pricing ("BGS-RSCP") charges in effect November 1, 2023, and assuming the customer receives BGS-RSCP service from PSE&G]. Furthermore, the Company projects an anticipated maximum average monthly bill increase of \$4.66, or approximately 3.97%, in the period from October 2034 to September 2035.

Additionally, a typical residential gas heating customer using 172 therms in a winter month and 87 average monthly therms (1,040 therms annually), would experience an initial increase in their average monthly bill of \$0.38 from \$93.22 to \$93.60, or approximately 0.41%, based upon current Delivery Rates and Basic Gas Supply Service-Residential Gas Service ("BGSS-RSG") charges in effect November 1, 2023, and assuming the customer receives BGSS service from PSE&G and not including any BGSS-RSG Bill Credits. Moreover, the expected maximum increase of \$4.07, or approximately 4.36%, is forecasted to occur in the period from October 2028 to September 2029.

The Company proposed to offer its electric CEF-EE II programs to PSE&G gas customers who are also Butler customers.

On December 28, 2023, Board Staff ("Staff") issued PSE&G a letter of administrative deficiency ("Letter") identifying administratively incomplete portions of the Petition and requesting that the Company cure any deficiencies. On January 5, 2024, PSE&G filed an update to the Petition to cure the deficiencies identified in the Letter ("Update").

After Commissioner Mary-Anna Holden retired from the Board, on January 10, 2024, the Board found that the Petition satisfied the Board's requirement that Butler submit a proposal to deliver Triennium 2 EE programs to Butler customers.<sup>10</sup> Also by the January 2024 Order, the Board designated myself, President Guhl-Sadovy, as the Presiding Commissioner authorized to rule on all motions that arose during the pendency of this proceeding, and modify schedules that may be set as necessary to secure a just and expeditious determination of all issues. The Board further directed that any entity wishing to file a motion for leave to intervene or participate, or to update a previously-filed motion for leave to intervene or participate, in this proceeding shall have until seven (7) days following Staff's issuance of a letter of administrative completeness to the Company.<sup>11</sup> On January 12, 2024, Staff issued a letter of administrative completeness, noting that the Update adequately cured the deficiencies identified in the Letter and that Staff therefore determined the Petition to be administratively complete. The Board subsequently received no additional or updated motions seeking leave to intervene or participate.

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<sup>10</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs et al., BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024 ("January 2024 Order").

<sup>11</sup> Ibid. By the January 2024 Order, the Board additionally redesignated Commissioner Abdou as the presiding commissioner for the Elizabethtown Gas Company ("ETG"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG") filings, BPU Docket Nos. QO23120869, QO23120868, and QO23120870.

## THE MOTIONS

### Motions to Intervene

#### *New Jersey Large Energy Users Coalition*

On December 7, 2023, the New Jersey Large Energy Users Coalition (“NJLEUC”) filed a Motion to Intervene in this proceeding, noting that it is an association whose members include large electric distribution customers served by PSE&G. NJLEUC asserted that it has a significant interest in the outcome of this proceeding because PSE&G has proposed a cost recovery mechanism for the CEF-EE-II program initiative through a new component of its existing GPRC. NJLEUC noted that its interests are significantly different from any other party because it has unique insight regarding the potential costs to large usage-based customers and the impact these costs would have on New Jersey’s business community, economy, and tax base. NJLEUC further noted that it will endeavor to work cooperatively with other parties in this proceeding to ensure administrative efficiency.

#### *Convergent Energy and Power*

On December 8, 2023, Convergent Energy and Power (“Convergent”) filed a Motion to Intervene in this proceeding, noting that it currently operates or is developing more than 500 megawatts/800 megawatt-hours of energy storage and solar-plus-storage and at least some of these projects are located in New Jersey. Convergent maintained that, as a provider of battery energy storage devices to commercial and industrial electric utility customers, it has a direct and substantial interest in this proceeding because the Triennium 2 programs involve compensation for battery energy storage devices. Convergent noted that its interest is sufficiently different from that of any other party because of its unique knowledge of, and experience with, market structures and incentives for adopting battery storage. Convergent asserted that its intervention in this matter will not lead to confusion or undue delay because Convergent’s interests in the Triennium 2 programs are relatively narrow, limited only to how those programs will impact battery energy storage systems. Convergent requested that, in the alternative, its Motion to Intervene be treated as a Motion to Participate.

#### *Energy Efficiency Alliance of New Jersey*

On December 8, 2023, the Energy Efficiency Alliance of New Jersey (“EEA-NJ”) filed a Motion to Intervene in this proceeding, noting that it is a 501(c)(6) trade association that, together with the Keystone Energy Efficiency Alliance, represents more than 60 business members. EEA-NJ noted that these members manufacture, design, and implement EE improvements in buildings across Pennsylvania and New Jersey on behalf of regulated utilities, the State of New Jersey, and ratepayers. EEA-NJ asserted that the proposed programs would directly affect the utilization of their services and products. EEA-NJ also represented that its interests in the proceeding are unique and not adequately represented by any other party, and that its members can offer valuable perspectives on the design and implementation of the proposed programs. Finally, EEA-NJ noted that its intervention would not cause confusion or undue delay since it would coordinate its representation with similarly situated parties to the extent that it deems such coordination appropriate.

*Enerwise Global Technologies, Inc. d/b/a CPower*

On December 8, 2023, Enerwise Global Technologies, Inc. d/b/a CPower ("CPower") filed a Motion to Intervene in this proceeding, noting that it is the largest Virtual Power Plant provider in the United States and aggregates end-use customer demand response, distributed generation, and energy storage resources to help meet demand reduction commitments and real-time supply needs. CPower identified that it is active at the wholesale and retail levels and has worked closely with regulators in other states to develop similar EE programs. CPower further noted that it serves the PJM Interconnection, LLC which operates a forward capacity market that helps ensure reliability within PJM. CPower asserted that its interests in the outcome of this matter are sufficiently different from that of any other party due to the breadth and potential scope of CPower's operations in New Jersey, which, through its service to PJM, serves the entire state of New Jersey, in contrast to individual public utilities which only serve portions of the state. Additionally, CPower maintained that it has unique knowledge regarding best practices in similar programs throughout the country and would provide an industry perspective which could reduce or eliminate unforeseen issues with which Staff, the New Jersey Division of Rate Counsel ("Rate Counsel"), and the utilities may not be familiar. CPower certified that it will abide by the schedule for this proceeding and that, consequently, its intervention in this matter will not unduly delay or otherwise disrupt this proceeding. CPower requested that, in the alternative, its Motion to Intervene be treated as a Motion to Participate.

*Google LLC*

On December 8, 2023, Google LLC ("Google") filed a Motion to Intervene in this proceeding, noting that it makes "Nest" devices which incorporate various features that help residential customers reduce their energy consumption for heating and cooling. Google noted that its Nest devices allow residential customers to participate in demand response programs, known as "Rush Hour Reward events," run by utilities or third-party aggregators. Google asserted that it has a significant interest in the outcome of this proceeding, specifically with regard to whether the Triennium 2 demand response programs will continue offering an efficient products rebate for smart thermostats, as proposed by PSE&G.

Additionally, Google claimed its interests are implicated by PSE&G's proposed demand response programs that involve direct load control using smart thermostats. Google also claimed that it has an interest in PSE&G's proposed "Fixed Bill Demonstration" program where customers agree to use remote energy to optimize smart thermostats. According to its filing, Google participated in past related proceedings and provided recommendations as a party in the PSE&G CEF-EE and the PSE&G Energy Cloud (AMI meter) proceedings. Google maintained that its intervention in this matter will provide valuable insight due to its substantial experience with smart thermostat demand response programs in other states. Google argued that its interests are sufficiently different from that of any other party due to its status as the largest supplier of smart thermostats in New Jersey as well as its experience with smart thermostat demand response programs. Google argued that its intervention in this matter will not cause confusion or undue delay because it understands the procedural requirements of these proceedings from direct involvement in other matters.

*Natural Resources Defense Council*

On December 8, 2023, the Natural Resources Defense Council ("NRDC") and the New Jersey Progressive Equitable Energy Coalition ("NJPEEC") filed a Motion to Intervene in this proceeding. The two entities moved to intervene in a single motion which provides separate, though



sometimes overlapping, justifications for intervention by each party individually.

NRDC noted that it is a global nonprofit membership organization with a mission to ensure the rights of all people to the air, water, and the wild. NRDC indicated that it has more than 410,000 dues-paying members globally, including more than 12,000 in New Jersey and many in PSE&G's service territory. NRDC asserted that its members are specifically and directly affected by the outcome of this case because NRDC has long-standing initiatives to promote cost-effective EE programs implemented by regulated electric and gas utilities. Additionally, NRDC argued that, as PSE&G seeks ratepayer dollars to fund its proposed CEF-EE II, the outcome of the case will affect NRDC's members who are PSE&G customers. NRDC further asserted that it was previously granted intervenor status in PSE&G's first CEF-EE proceeding. NRDC noted that its interests are substantially different from those of other parties, due to its unique position as a nonprofit working to inform energy policy that benefits the environment. NRDC indicated that it will work with other parties to ensure that they avoid duplicating efforts and to prevent confusion and undue delay. In addition, NRDC identified that it will strictly abide by the schedule and other rulings.

#### *New Jersey Progressive Equitable Energy Coalition*

On December 8, 2023, the NRDC and the NJPEEC filed a Motion to Intervene in this proceeding. The two entities both moved to intervene in a single motion which provides separate, though sometimes overlapping, justifications for intervention by each party individually.

NJPEEC noted that it is a nonprofit Black- and Brown-led coalition whose stated goals include ensuring that overburdened communities and environmental justice ("EJ") communities receive an equitable share of the benefits from clean energy systems being developed in New Jersey. NJPEEC argued that its intervention would add constructively to the proceedings by bringing its expertise and experience advocating on behalf of EJ communities in New Jersey. NJPEEC indicated that it has participated in similar proceedings in the past, which include filing public comments on New Jersey's Environmental Justice Regulations and by being appointed to state working groups on building electrification and EE. NJPEEC characterized its interest in this case as sufficiently different from other parties due to its position as a Black- and Brown-led organization advocating on behalf of EJ Communities in New Jersey. NJPEEC indicated that it will work with other parties to ensure that they avoid duplicating efforts and to prevent confusion and undue delay. In addition, NJPEEC affirmed that it will strictly abide by the schedule and other rulings.

#### *Sierra Club*

On December 18, 2023, the Sierra Club filed a Supplemental Motion to Intervene to join the December 8, 2023 Motion to Intervene filed by co-movants NJPEEC and NRDC.

The Sierra Club indicated that it is a grassroots environmental organization with more than 680,000 members across the country, including 18,000 in New Jersey. The Sierra Club asserted that its mission includes protecting and restoring the environment and promoting the responsible use of the earth's resources. The Sierra Club asserted that it has developed expertise in EE programs through its work at the local, state, and national levels. The Sierra Club further indicated that the outcome of this proceeding will directly affect its members in New Jersey, particularly PSE&G customers. Additionally, the Sierra Club asserted that its initiatives to promote cost-effective EE programs will be influenced by the Board's decisions. The Sierra Club also noted that it has previously been granted intervenor status by the Board in various EE matters and that



its interests are unique due to its nonprofit status. Finally, the Sierra Club affirmed that its participation would not cause confusion or undue delay because it will abide by all schedules and rulings and it intends to work alongside NJPEEC and NRDC.

*Uplight, Inc.*

On December 8, 2023, Uplight, Inc. ("Uplight") filed a Motion to Intervene in this proceeding, noting that it is a technology provider to more than 80 electric and gas utilities across North America, including within New Jersey. According to its motion, Uplight's software provides customer engagement and demand management solutions to assist in achieving energy and carbon reduction goals. Uplight asserted that its experience maintaining similar EE programs nationwide would provide a tangible benefit to this proceeding. Uplight noted that it presently administers EE programs for PSE&G and is a nationwide implementer of utility EE and demand response programs with knowledge of best practices in program design and marketing. Uplight noted that it has an interest in the outcome of, and can offer a unique perspective in, this matter and that its participation would not cause undue delay or confusion because it would coordinate its representation with similarly situated parties to the extent that it finds such coordination feasible. Uplight requested that, in the alternative, its Motion to Intervene be treated as a Motion to Participate.

Motions to Participate

*ACE, ETG, NJNG, JCP&L, RECO, and SJG*

On December 8, 2023, Atlantic City Electric ("ACE"), ETG, NJNG, Jersey Central Power & Light Company ("JCP&L"), Rockland Electric Company ("RECO"), and SJG (collectively "Joint Movants") submitted a Joint Motion to Participate in this matter. The Joint Movants noted that they are public utility corporations incorporated in New Jersey and engaged in the purchase, distribution, and sale of electricity or gas for residential, commercial, and industrial purposes in New Jersey. The Joint Movants claimed a significant interest in the outcome of the proceeding because the substantive policy and procedural requirements established in this proceeding are likely to have a precedential effect on proceedings involving the other utilities. The Joint Movants further noted that their interests as investor-owned electric or gas utilities serving retail customers are materially different from that of PSE&G and the other parties. Finally, the Joint Movants affirmed that their participation would not cause delay or confusion because they would each abide by any schedule set for the proceeding.

*Advanced Energy United, Inc.*

On December 8, 2023, Advanced Energy United, Inc. ("United") filed a Motion to Participate in this proceeding, noting that it is a 501(c)(6) national association of businesses that work to accelerate the move to 100% clean energy and electrified transportation. According to its motion, United represents more than 100 companies in the U.S., including workers located in New Jersey. United asserted that it has a significant interest in the outcome of this proceeding, as a leading advocate of EE programs. United further asserted that it can offer a unique perspective regarding PSE&G's EE programs and that its participation would add constructively to the case. Finally, United affirmed that its participation would not cause confusion or delay because it would timely submit filings.

## RESPONSES

### Rate Counsel

On December 14, 2023, Rate Counsel submitted a letter responding to the filed Motions to Intervene or Participate. By its letter response, Rate Counsel indicated that it did not oppose the Motion to Participate filed by the Joint Movants and United. Additionally, Rate Counsel indicated that it did not oppose the Motions to Intervene filed by NJLEUC, NRDC, and NJPEEC. On December 20, 2023, Rate Counsel submitted a response to the Sierra Club's supplemental Motion to Intervene and indicated that it did not oppose the Motion.

Rate Counsel opposed Convergent's Motion to Intervene, arguing that Convergent's interests in the proceeding are economic in nature and do not implicate a legally protected right under N.J.S.A. Title 48. Rate Counsel did not oppose Convergent's request in the alternative for status as a participant in this proceeding.

Rate Counsel opposed CPower's Motion to Intervene, arguing that CPower's interests in this proceeding are primarily to gain business in New Jersey and such interests do not constitute a legally protected right under N.J.S.A. Title 48. Rate Counsel did not oppose CPower's request in the alternative for status as a participant in this proceeding.

Rate Counsel opposed EEA-NJ's Motion to Intervene, arguing that, while EEA-NJ has potential economic interest in successful implementation of PSE&G's programs, it failed to assert a legally protected right under N.J.S.A. Title 48 to receive work from PSE&G. Rate Counsel did not oppose participant status for EEA-NJ.

Rate Counsel opposed Google's Motion to Intervene, arguing that Google's interests in the proceeding are purely economic in nature and do not implicate a legally protected right under N.J.S.A. Title 48. Rate Counsel did not object to the Board granting participant status to Google should the Board consider participant status rather than Google's requested intervention.

Rate Counsel opposed Uplight's Motion to Intervene, arguing that, while Uplight has an economic interest in successful implementation of PSE&G's programs, it failed to assert a legally protected right under N.J.S.A. Title 48 to receive work from PSE&G. Rate Counsel did not object to, and subsequently requested that the Board grant, Uplight's request, in the alternative, to treat its Motion as a Motion to Participate.

### Convergent

On December 20, 2023, Convergent submitted a letter reply to Rate Counsel's response, indicating that it did not oppose the request to convert its Motion to Intervene to a Motion to Participate consistent with its original request that, in the alternative, it be granted participant status in this matter.

### EEA-NJ

On December 20, 2023, EEA-NJ submitted a letter reply to Rate Counsel's opposition, noting that it will be substantially, specifically, and directly affected by the outcome of this case, despite having no legally protected right to intervene under N.J.S.A. Title 48. EEA-NJ further argued that Rate Counsel did not adequately explain why EEA-NJ would not be substantially, specifically, and directly affected by the outcome of this case and that EEA-NJ was granted intervenor status in

numerous Triennium 1 proceedings because the Board found it would be directly affected by their outcomes.

EEA-NJ further argued that its interests differ from those of any other party because, as an EE trade organization, it can add directly and measurably to this proceeding through its member organizations' direct, extensive knowledge of the establishment and execution of State- and utility-run energy efficiency programs. EEA-NJ further noted that it has continually been a "constructive and unique presence in the Board's numerous stakeholder meetings often offering comments" and due to its historical involvement in EE proceedings in the State should be granted intervenor status.

### *Google*

On December 19, 2023, Google submitted a letter reply to Rate Counsel's opposition, arguing that an economic interest can serve as a basis for intervention and that its economic interests will be substantially and directly affected by the outcome of this case. Google reiterated that it possesses valuable expertise regarding smart thermostat demand response programs. Finally, Google argued that it has an interest in protecting current owners of Nest Thermostats by ensuring that any demand response program is compatible with those thermostats.

### *Uplight*

On December 21, 2023, Uplight submitted a letter reply to Rate Counsel's opposition, disputing Rate Counsel's assertion that "purely economic" interests cannot serve as a basis for intervention. Nevertheless, Uplight contended that its interests are not purely economic, as it also has non-economic environmental and social responsibility goals. Uplight maintained that it will be substantially and specifically impacted by the outcome of this case and that it is prepared to work productively with the other parties to avoid undue delay.

## **DISCUSSION AND FINDINGS**

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 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 requirement 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.<sup>12</sup>

### Motions to Intervene

After consideration of the papers, and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that NJLEUC, NRDC, NJPEEC, and the Sierra Club will be directly affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. I **FURTHER FIND** that NJLEUC, NRDC, NJPEEC, and the Sierra Club have met the standards for intervention in this proceeding. Accordingly, I **HEREBY GRANT** the Motions to Intervene of NJLEUC, NRDC, NJPEEC, and the Sierra Club pursuant to the authority granted to me by the Board under the September 23, 2020 Order.

Regarding EEA-NJ's Motion to Intervene, Rate Counsel indicated that it opposed granting intervenor status because EEA-NJ failed to demonstrate either a statutory right to intervene or a legally protected right to intervene under N.J.S.A. Title 48 to receive work from PSE&G. However, 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. As such, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that EEA-NJ will be directly affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. I **FURTHER FIND** that EEA-NJ has met the standards for intervention in this proceeding. I **HEREBY GRANT** EEA-NJ's Motion to Intervene.

By its Motion to Intervene, Convergent noted that it owns and operates large energy storage and solar-plus-storage facilities throughout North America, with some projects located in New Jersey. Convergent maintained that, due to its status as a provider of battery energy storage devices, it has a direct interest in this proceeding. Convergent further argued that its interest is sufficiently different from that of any other party to this proceeding because it is a leading company in providing battery energy storage solutions and can provide valuable insight into adoption of such resources for powering the grid. I am not persuaded, however, that Convergent's interests are sufficiently distinct from those of the other parties to merit intervenor status. Convergent did not offer any explanation as to how its interest, as a company not particularized to the EE market within New Jersey, is substantially different from that of other parties to this proceeding or how the outcome of this case will significantly impact Convergent other than to provide greater business opportunities in New Jersey. As such, I **HEREBY FIND** that Convergent has not made a showing that its interests in this matter warrant granting its Motion to Intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** Convergent's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate. Considered under this standard, I **FURTHER FIND** that Convergent has a significant interest in this proceeding and that, as a participant, Convergent is

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<sup>12</sup> See In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** Convergent participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

According to its motion, CPower is the largest Virtual Power Plant provider in the United States, aggregating end-use customer demand response, distributed generation, and energy storage resources to manage demand-side flexibility and demand reduction throughout the United States. Specific to New Jersey, CPower serves the PJM Interconnection, using its demand response to provide transmission and distribution benefits to PJM which CPower indicated it would like to bring to New Jersey. I am not persuaded, however, that CPower's interests are sufficiently distinct from that of the other parties to merit intervenor status. CPower did not offer any explanation as to how its interest, as a company operating within the PJM Interconnection, is substantially different from that of other parties to this proceeding or how the outcome of this case will significantly impact CPower other than to provide business opportunities within New Jersey akin to those it already has in New York. As such, I **HEREBY FIND** that CPower has not made a showing that its interests in this matter warrant granting its Motion to Intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** CPower's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate. Considered under this standard, I **FIND** that CPower has a significant interest in this proceeding and that, as a participant, CPower is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** CPower participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

By its Motion to Intervene, Uplight noted that it has an interest in the outcome of this proceeding and can offer a unique perspective on this case because it presently administers EE programs for PSE&G and is a nationwide implementer of utility EE and demand response programs with knowledge of best practices in program design and marketing. While I acknowledge that Uplight's partnership with PSE&G puts it in a position to be affected by the outcome of the proceeding and that its implementation experience could help it to add to the development of the record in this matter, I am not persuaded that Uplight's interest is sufficiently distinct from that of the other parties to merit intervenor status. As such, I **HEREBY FIND** that Uplight has not made a showing that its interests in this matter warrant granting its Motion to Intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** Uplight's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate. Considered under this standard, I **FURTHER FIND** that Uplight has a significant interest in this proceeding and that, as a participant, Uplight is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** Uplight participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

Regarding Google's Motion to Intervene, Rate Counsel argued that Google's interests in the proceeding are purely economic and as such, do not implicate a legally protected right under N.J.S.A. Title 48 and do not warrant intervention in this matter. Google argued that its interest in this proceeding is to protect current owners of Google Nest thermostats by ensuring that any demand response program is compatible with the Google Nest thermostats. I am not persuaded, however, that Google's interest is sufficiently distinct from that of the other parties to merit intervenor status. As such, I **HEREBY FIND** that Google has not made a showing that its interests in this matter warrant granting its Motion to Intervene. Accordingly, I **HEREBY DENY** Google's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate. Considered under this standard, I **FURTHER FIND** that Google has a

significant interest in this proceeding and that, as a participant, Google is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** Google participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

**Motions to Participate**

With regard to the Joint Motions to Participate filed by the Joint Movants, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the Joint Movants' participation in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the Joint Utilities' Motion to Participate filed on behalf of ACE, ETG, JCP&L, NJNG, RECO, and SJG, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

Concerning the Motion to Participate filed by United, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that United's participation in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** United's Motion to Participate in this proceeding, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

I **HEREBY DIRECT** that this Order be posted on the Board's website.

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

DATED: 2/26/24

BY:

  
PRESIDENT GUHL-SADOVY

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

DOCKET NO. QO23120874

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