

# STATE OF NEW JERSEY

Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

## **ENERGY AND CLEAN ENERGY**

IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL OF TRIENNIUM 2 CLEAN ENERGY PROGRAMS AND ASSOCIATED COST RECOVERY PURSUANT TO THE CLEAN ENERGY ACT

)	PREHEARING ORDER SETTING
)	PROCEDURAL SCHEDULE AND
)	EXTENDING 180 DAY REVIEW
)	PERIOD
)	
)	DOCKET NO. QO23120870

#### **Parties of Record:**

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel Sheree L. Kelly, JD, MBA, Regulatory Affairs Counsel, South Jersey 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

BY COMMISSIONER MARIAN ABDOU:

## **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 April 7, 2021, the Board approved a stipulation of settlement authorizing South Jersey Gas ("SJG" or "Company") to implement its portfolio of EE programs.<sup>3</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 framework.<sup>4</sup> By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.<sup>5</sup>

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

<sup>&</sup>lt;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>&</sup>lt;sup>3</sup> In re the Petition of South Jersey Gas Company for Approval of New Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. GO20090618, Order dated April 7, 2021.

<sup>&</sup>lt;sup>4</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.

<sup>&</sup>lt;sup>5</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.

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>6</sup>

By the September 2023 Order, the Board retained this matter for hearing and, pursuant to N.J.S.A. 48:2-32, designated President Guhl-Sadovy as Presiding Commissioner in this matter. 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>7</sup> By Order dated January 10, 2024, the Board redesignated President Guhl-Sadovy as the Presiding Commissioner for the Public Service Electric and Gas Company ("PSE&G") filing, and designated myself, Commissioner Abdou, as the Presiding Commissioner in this matter, 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.<sup>8</sup>

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<sup>&</sup>lt;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 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>&</sup>lt;sup>7</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.

<sup>&</sup>lt;sup>8</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"). By the January 2024 Order, the Board additionally redesignated Commissioner Abdou as the Presiding Commissioner for the New Jersey Natural Gas Company ("NJNG") and Elizabethtown Gas Company ("ETG") filings, BPU Docket Nos. QO23120868 and QO23120869.

## **DECEMBER 2023 PETITION**

On December 1, 2023, SJG filed the requisite petition with the Board ("Petition"). In the Petition, the Company proposed a total budget of approximately \$425 million for its EE programs over a 30-month period from January 1, 2025 through June 30, 2027. The proposed programs and associated costs are summarized in the table below:

Category	Sector	Program	Total
Core	Residential	Whole Home	\$30,278,974
		Income Qualified	\$27,369,964
		EE Products	\$135,931,284
		Behavioral	\$3,463,936
	Commercial	Energy Solutions	\$32,334,649
		Prescriptive and Custom	\$12,743,893
		Direct Install	\$22,175,573
	Multifamily	Multifamily	\$28,584,098
Utility-Led		Building Decarbonization	\$7,034,351
		Demand Response	\$1,292,852
		Next Generation Savings	\$1,078,640
Other Portfolio Costs		Workforce Development	\$800,000
		Community Outreach	\$300,000
		Outside Services	\$675,000
Net Utility Transfers			\$120,900,000
Total	\$425,000,000		

In addition to approval of the plan to implement the EE programs, the Company requested approval of a cost recovery mechanism. SJG proposed a cost recovery mechanism consistent with the cost recovery mechanism approved by the Board for the Company's current Energy Efficiency Programs ("EEPs"). The Company currently recovers its costs associated with EEPs through the Energy Efficiency Tracker ("EET") rate, which is set forth in Rider "N" to the Company's Tariff. The total revenue requirements for the EEPs for an annual period are calculated and re-covered through a volumetric charge applicable to all firm throughput. Rider "N" also includes provisions for the treatment of any over/under recoveries. Recovery of the revenue requirements associated with the proposed Triennium 2 Programs would be accomplished by deriving a rate associated with such revenue requirements and adding it to the Company's currently approved EET Rate. The Company also proposes to defer any over/under recovery of the actual revenue requirements compared to revenues, consistent with the cost recovery mechanism approved by the Board for the Company's current EEPs.

As proposed, the monthly bill impact for a typical residential heating customer using 100 therms would be an increase of \$1.24, or 0.7%, as compared to current rates, effective upon Board approval for the initial year of the EE programs.

On December 26, 2023, Board Staff ("Staff") issued SJG 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, SJG filed an update to the Petition to cure the deficiencies identified in the Letter ("Update"). N.J.S.A. 48:3-98.1(b) provides the Board with

180 days to approve, modify, or deny the Company's requested recovery of costs for the Program. The 180-day review period commenced on January 5, 2024 for the Petition.

In the January 2024 Order, the Board 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>9</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.

By Order dated February 26, 2024, after considering all Motions to Intervene or Participate in this matter and responses to the Motions, I granted intervenor status to the New Jersey Large Energy Users' Coalition ("NJLEUC") and the Energy Efficiency Alliance of New Jersey ("EEA-NJ"), and participant status to Uplight, Inc. and the joint utilities: Atlantic City Electric Company, ETG, Jersey Central Power & Light Company, NJNG, PSE&G, and Rockland Electric Company.<sup>10</sup>

Based upon the status of current settlement discussions, the parties to this matter have agreed that an extension of the 180-day review period is appropriate. Accordingly, on March 19, 2024, the parties to this matter submitted a stipulation of settlement, extending the 180-day review period to October 15, 2024 ("Stipulation").

N.J.S.A. 48:2-21.3 allows any public utility to file with the Board a written stipulation waiving the effective date of any tariff or rate, subject to the Board's approval. In this case, the parties to this proceeding have agreed to an extension until October 15, 2024. No party has opposed the Stipulation or the extension of the review period. As such, after review of the Stipulation, I <a href="https://example.com/heres/heres/heres/">HEREBY FIND</a> the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, I <a href="https://example.com/heres/heres/heres/">HEREBY APPROVE</a> the attached Stipulation in its entirety, <a href="https://example.com/heres/her

I have reviewed the proposal for a procedural schedule, which has been agreed to by the parties to this matter. I <u>HEREBY ISSUE</u> the following Prehearing Order, along with the procedural schedule, attached as Exhibit A, and <u>HEREBY DIRECT</u> the parties to comply with its terms.

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<sup>&</sup>lt;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 *et al.*, BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024.

<sup>&</sup>lt;sup>10</sup> In re the Petition of South Jersey Gas Company for Approval of Triennium 2 Clean Energy Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. QO23120870, Order dated February 26, 2024.

## PREHEARING ORDER

# 1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED

## A. Nature of Proceedings

On December 1, 2023, SJG filed the Petition with the Board. In the Petition, the Company proposed a total budget of approximately \$425 million for its EE programs over a 30-month period from January 1, 2025 through June 30, 2027.

In addition to approval of the plan to implement the EE programs, the Company requested approval of a cost recovery mechanism. SJG proposed a cost recovery mechanism consistent with the cost recovery mechanism approved by the Board for the Company's current EEPs. The Company currently recovers its costs associated with EEPs through the EET rate, which is set forth in Rider "N" to the Company's Tariff. The total revenue requirements for the EEPs for an annual period are calculated and re-covered through a volumetric charge applicable to all firm throughput. Rider "N" also includes provisions for the treatment of any over/under recoveries. Recovery of the revenue requirements associated with the proposed Triennium 2 Programs would be accomplished by deriving a rate associated with such revenue requirements and adding it to the Company's currently approved EET Rate.

The Company also proposes to defer any over/under recovery of the actual revenue requirements compared to revenues, consistent with the cost recovery mechanism approved by the Board for the Company's current EEPs.

As proposed, the monthly bill impact for a typical residential heating customer using 100 therms would be an increase of \$1.24, or 0.7%, as compared to current rates, effective upon Board approval for the initial year of the EE programs.

## B. <u>Issues to be Resolved</u>

- 1. The cost effectiveness and cost efficiency of the proposed programs, including but not limited to:
  - a. Whether the utility pursued additional state and federal funding for its EE and building decarbonization programs to defray burdens on ratepayers; and
  - b. Whether the total budget dollar amount in the building decarbonization programs proposed by all utilities combined exceeds the Board's recommended total budget:
- 2. The compliance of the proposed program offerings with the Board's requirements, including but not limited to:
  - a. Whether the utility's filing proposes similar EE programs that can be consistently implemented across all utility territories; and
  - b. Whether the utility's proposed building decarbonization programs are in compliance with the Board's guidelines; and
- 3. The reasonableness and lawfulness of the proposed cost recovery mechanism, including but not limited to:
  - a. Whether the utility's proposed program properly accounts for jointly planned and coordinated budgets with other partner utilities.

# 2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES

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# Counsel for the New Jersey Large Energy Users Coalition ("NJLEUC")

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

# 3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING

As authorized by N.J.S.A. 10:4-9.3,, public hearings will be held virtually after publication of notice in newspapers of general circulation in SJG's service territory. The dates, times, and locations of the public hearings are to be determined.

# 4. SCHEDULE OF HEARING DATES, TIME, AND PLACE

Evidentiary hearings are tentatively scheduled for August 26 and 27, 2024, at a time and location to be determined based upon the availability of the parties and myself.

# 5. STIPULATIONS

As of the date of this Order, the Company, Staff, and the New Jersey Division of Rate Counsel ("Rate Counsel") have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential ("NDA").

The parties to this matter have also agreed that extension of the 180-day review period is appropriate and have entered into a stipulation to extend the review period to October 15, 2024 to allow more time for review of SJG's Petition by the Board.

#### 6. SETTLEMENT

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

# 7. AMENDMENTS TO PLEADINGS

On January 5, 2024, SJG filed a supplement to its Petition to cure certain administrative deficiencies.

## 8. <u>DISCOVERY AND DATE FOR COMPLETION</u>

The time limits for discovery shall be as provided in Exhibit A or in accordance with N.J.A.C. 1:1-10.4.

## 9. ORDER OF PROOFS

SJG has the burden of proof. The hearings will be conducted by topic in the following order:

First – SJG

Second – Rate Counsel

Third - EEA-NJ

Fourth - NJLEUC

Fifth – Staff

# 10. EXHIBITS MARKED FOR IDENTIFICATION

None at this time.

## 11. EXHIBITS MARKED IN EVIDENCE

None at this time.

# 12. <u>ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES</u>

SJG will present the following witnesses: W. Peter Druckenmiller and James Fredericks; Isaac Gabel-Frank, Gabel Associates

Rate Counsel will present the following witnesses: Robert J. Henkes, Henkes Consulting; David Dismukes, Acadian Consulting Group; Elizabeth A. Stanton, Applied Economics Clinic

Rate Counsel or other parties may identify additional witnesses as necessary for purposes of testimony.

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

## 13. MOTIONS

All pending motions to intervene and/or participate have been addressed.

# 14. SPECIAL MATTERS

None at this time.

The parties are <u>HEREBY DIRECTED</u> to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

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: 4 (23/2024

BY:

MARIAN ABDOU COMMISSIONER

# IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL OF TRIENNIUM 2 CLEAN ENERGY PROGRAMS AND ASSOCIATED COST RECOVERY PURSUANT TO THE CLEAN ENERGY ACT

#### **DOCKET NO. QO23120870**

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# EXHIBIT A: PROCEDURAL SCHEDULE

#### **DOCKET NO. Q023120870**

Motions to Intervene/Participate January 19, 2024 Responses to Intervention/Participation January 25, 2024 Discovery Requests on Initial Testimony+ February 9, 2024 Responses to Discovery on Initial Testimony February 23, 2024 March 6, 2024 Additional Discovery Requests Additional Round Discovery Answers March 20, 2024 Settlement Conference March 27, 2024 Public Hearing++ TBD in April–May Intervenor/Respondent Testimony May 1, 2024 Discovery on Intervenor/Respondent Testimony May 15, 2024 Responses to Discovery on Intervenor/Respondent Testimony May 31, 2024 Rebuttal Testimony June 17, 2024 Discovery on Rebuttal Testimony June 27, 2024 July 8, 2024 Answers to Rebuttal Discovery Settlement Conference (if necessary) July 16, 2024 Evidentiary Hearings with oral surrebuttal+++ August 26-27, 2024 Initial Briefs September 11, 2024 Reply Briefs September 25, 2024

Final Board Action TBD

<sup>+</sup> Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 1:1-10.4. The aforementioned dates are subject to modification by the Presiding Commissioner. The parties on the service list will be notified accordingly.

<sup>++</sup> Subject to the Presiding Commissioner's availability.

<sup>+++</sup> The Parties may request oral rejoinder. The Presiding Commissioner will confirm this request prior to evidentiary hearings.