



Agenda Date: 09/30/14
Agenda Item: 2L

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE RATE SCHEDULE CSG)	DECISION AND ORDER
TRANSPORTATION SERVICE AGREEMENT)	APPROVING GAS SERVICE
BETWEEN PUBLIC SERVICE ELECTRIC AND GAS)	AGREEMENT
COMPANY AND HOLCIM (US) INC. A/K/A ST.)	
LAWRENCE CEMENT AND THE RELATED REQUEST)	
FOR A DISCOUNT IN THE APPLICABLE SOCIETAL)	
BENEFITS CHARGE (SBC))	DOCKET NO. GR14040344

Parties of Record:

Martin C. Rothfelder, Esq., Public Service Electric and Gas Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

BACKGROUND AND PROCEDURAL HISTORY

On April 11, 2014, Public Service Electric and Gas Company ("PSE&G" or "Company"), filed a letter with the New Jersey Board of Public Utilities ("Board") seeking approval of the Rate Schedule Contract Service Gas ("CSG") Transportation Service Agreement (the "Service Agreement") between PSE&G and Holcim (US) Inc. a/k/a St. Lawrence Cement ("Holcim"). The filing was submitted pursuant to PSE&G's Rate Schedule CSG-Contract Service as set forth in its Tariff for Gas Service on file with and approved by the Board.¹ The Service Agreement, attached to the letter as Exhibit "A", set forth the rates, terms and conditions under which PSE&G proposes to provide firm natural gas distribution services to Holcim's facilities at 595 Morgan Boulevard, Camden, New Jersey. PSE&G further requested expedited treatment of the filing and confidential treatment for portions of the Service Agreement.

Holcim has requested to have the Societal Benefits Charge ("SBC") discounted to \$0.0375 per therm (inclusive of New Jersey Sales and Use Tax ("SUT"))². In addition, Holcim requested a rate effective date of September 1, 2013. PSE&G took no position on either request. However, PSE&G requested that, if the Board were to grant Holcim's request for a discount to the SBC,

¹ B.P.U. N.J. No. 15 Gas, http://pseu.com/family/pseandg/tariffs/gas/001/gas_tariff.pdf.

² PSE&G's current SBC charge is \$0.046899 (\$0.050182 inclusive of SUT)

the exact amount of the discount be specified in a Board Order for the term of the agreement. Both PSE&G and Holcim requested that the Board address these requests by Holcim.

PSE&G presently provides natural gas transportation services to the facilities owned and operated by Holcim at rates and terms set by an agreement that provided for commencement of service on September 1, 2001. Via letter dated August 29, 2012, PSE&G, in an effort to move Holcim to its new arrangement for consideration of discounts (Rate Schedule CSG) provided notice of its intent not to renew its contract with Holcim at the end of August 31, 2013.

2010 Discount Contract Proceeding

In 2010, the Board conducted and completed a proceeding in which it examined the standards applicable to gas distribution rate discounts and associated terms and conditions.³ Subsequently, the Board approved modifications to PSE&G's tariff, including the establishment of Rate Schedule CSG, to enable PSE&G to provide discount gas service rates to counter "Economically Viable Bypass" threats or "Other Considerations."⁴ The CSG tariff, at sheet 112, paragraph 2, requires Board review and approval of agreements that PSE&G enters into under that tariff.⁵

In accordance with Rate Schedule CSG, Holcim submitted an application seeking discounted rates under the "Economically Viable Bypass" portion of Rate Schedule CSG for its facilities. PSE&G asserts that it has reviewed the information set forth in Holcim's application and determined that it was reasonable to extend the offer included in Attachment A to the letter stating that the rate agreement is necessary to prevent the loss of load.

Key Terms of the Contract

The Service Agreement provides for a five-year term, effective on the first day of the month following the effective date of Board approval of the agreement, subject to early termination as provided in the CSG tariff. The rate to be charged is based on the contract monthly terms using the methodology applicable to Rate Schedule CSG, which includes a service charge and results in Distribution Charge of \$0.002512 per therm delivered (\$0.002688 with current SUT) and a Maintenance Charge of \$0.000026 per therm delivered (\$0.000027 with current SUT).

The New Jersey Division of Rate Counsel ("Rate Counsel") and Board Staff ("Staff"), propounded discovery upon PSE&G and National, and Staff represents that all discovery has been answered. In addition to the written discovery, Rate Counsel, Staff, the Company and Holcim (collectively "the Parties") held discovery and settlement conferences in this matter.

Rate Counsel Comments

By letter dated September 17, 2014, Rate Counsel submitted comments on the proposed Service Agreement. Rate Counsel states that it does not object to the Distribution charge,

³ In re a Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, Docket Nos. GR10100761 and ER10100762 (August 18, 2011). ("Discount Contract Order")

⁴ In re the Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions; Public Service Electric and Gas Company's Compliance Filing To Implement the Tariff Changes, Docket No. GT11090616 (May 23, 2012).

⁵ B.P.U. N.J. No. 15 Gas, Sheet No. 112, http://pseg.com/family/pseandg/tariffs/gas/pdf/gas_tariff.pdf.

Maintenance Charge, and terms of service set forth in the proposed Service Agreement. Further, based on the documentation presented and the representations by PSE&G and Holcim, Rate Counsel does not object to the proposed reduction in the SBC.

However, Rate Counsel objects to the retroactive application of the terms of the proposed Service Agreement and SBC reduction. Rate Counsel notes that the application was filed on April 10, 2014, which was subsequent to the expiration date of the previous agreement (August 31, 2013). Rate Counsel further states that since that time Holcim has operated its facility on the TSG-NF tariff and neither PSE&G nor Holcim petitioned the Board for an extension of the prior service agreement prior to its expiration.

DISCUSSION AND FINDINGS

After reviewing the filing and Service Agreement, the Board is satisfied that the Service Agreement will have a financial impact that is beneficial to the Company's ratepayers by avoiding the loss of load that would otherwise result from the by-pass of the distribution system. The loss of load would result in reduced revenue that would otherwise benefit ratepayers. The Board is also satisfied that the Service Agreement meets the requirements of PSE&G's previously approved tariff for CSG service. Therefore, the Board **HEREBY FINDS** that Holcim qualifies for a discounted gas service rate on the basis of economic bypass under Rate Schedule CSG and the rate to be charged satisfies the requirements of the tariff.

As noted by the Board in the Discount Contract Order, nothing in N.J.S.A. 48:3-60.1 demonstrates a legislative intent that the SBC be applied to all customers at the same level, and in practice the SBC charge varies between the utilities. Discount Contract Order at 23. In addition, the Board stated that in the appropriate circumstances, it can permit variation from the strict standard rate per therm that has been the norm for assessing the SBC from gas customers. Ibid. In this case, based on the information submitted in the filing, the Board **FINDS** that it is appropriate to approve a discounted SBC rate of \$0.0375 per therm inclusive of SUT for the service to be provided under the Service Agreement. Should the customer bypass the system, there would be no contribution to the SBC, further reducing the benefit to the Company's other ratepayers.

With respect to Holcim's request for an effective date of September 1, 2013, the Board is not persuaded by Holcim's arguments as to the need to backdate the effective date of the agreement. The Board notes that the agreement was not executed by PSE&G and Holcim until March 2014, and the CSG tariff clearly states that Board approval is required before the agreement is effective. The Board further notes that, as stated by Rate Counsel, neither PSE&G nor Holcim petitioned the Board for an extension of the prior service agreement prior to its expiration. Therefore, the Board **DENIES** Holcim's request for an effective date of September 1, 2013. Accordingly, the Board **HEREBY APPROVES** the Service Agreement attached hereto as Exhibit A. The effective date of this Order shall be the later of October 1, 2014 or date of service of the Order.

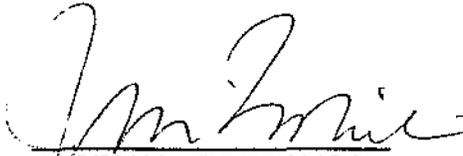
With respect to the request for confidential treatment of certain information that is claimed to be commercially sensitive or proprietary, the Board **FINDS** that this issue should be decided by the Board's Custodian of Records pursuant to the Board's regulations, if and when a request for release of such data is made under the Open Public Records Act pursuant to N.J.A.C. 14:1-12.

PSE&G's rates will remain subject to audit by the Board. This Decision and Order does not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.

DATED: 9/30/14

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:


KRISTI IZZO
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 RATE SCHEDULE CSG TRANSPORTATION SERVICE
AGREEMENT BETWEEN PUBLIC SERVICE ELECTRIC AND GAS COMPANY AND
HOLCIM (US) INC. A/K/A ST. LAWRENCE CEMENT AND THE RELATED REQUEST FOR A
DISCOUNT IN THE APPLICABLE SOCIETAL BENEFITS CHARGE (SBC)
DOCKET NO. GR14040344**

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PUBLIC VERSION

Rate Schedule CSG Service Agreement

This Rate Schedule CSG Service Agreement ("Agreement") is by and between Public Service Electric and Gas Company ("PSE&G"), a New Jersey corporation having its principal offices at 80 Park Plaza, Newark, New Jersey 07101 and Holcim (US) Inc. aka St. Lawrence Cement ("Holcim") of 6211 Ann Arbor Rd., Dundee, MI 48131 (collectively "the Parties" or individually "Party").

Witnesseth

WHEREAS Holcim submitted an application to PSE&G seeking firm service under PSE&G's Rate Schedule CSG – Contract Service to the Facilities to its facilities at 595 Morgan Blvd, Camden, NJ, and

WHEREAS PSE&G has evaluated Holcim's application for Rate Schedule CSG service under the Economic Bypass portion of that tariff and determined that it would be consistent with the terms of its Tariff for Gas Service on file with and approved by the NJBPU -- B.P.U.N.J. No. 15 – Gas (hereinafter "Gas Tariff"), including the terms of Rate Schedule CSG, for PSE&G to provide firm CSG service to Holcim at the rates, terms and conditions set forth in this Agreement, except that Holcim requests to have the Societal Benefits Charges discounted and further requests a retroactive effective date of the expiration of its prior contract, and PSE&G has no position on those requests, such that both parties request that the Board of Public Utilities address these requests in its order addressing this agreement; and

NOW, THEREFORE, in consideration of the above stated premises and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

PUBLIC VERSION

1. Term

This Agreement shall be effective April 1, 2014 or the first day of the month following the effective date of approval of this Agreement by the NJBPU if the effective date of such approval is later than April 1, 2014, unless the NJBPU order addressing this Agreement provides a different date (the "Effective Date") and shall extend for a period of five (5) years thereafter (each such year being a Contract Year during the term of this Agreement).

2. CSG Service

2.1 Service – From and after the Effective Date specified in Section 1.1, PSE&G shall provide to Holcim firm service in accordance with the Economically Viable Bypass alternative of the Rate Schedule CSG tariff at PSE&G meter delivery point with meter numbers 400000001 and 400000002. The average annual therms that applies to this contract at the time of signing is Average Annual Therms

██████████. PSE&G shall provide gas volumes as follows: ██████████ Thousand Cubic Feet (Mcf) on a maximum hourly basis, ██████████ Mcf on an average daily basis, and ██████████ Mcf on a maximum monthly average daily usage basis.

2.2 Rates – The rates charged to Holcim for the Facilities served under this Agreement shall be for firm service in accordance with the Economically Viable Bypass alternative of the Rate Schedule CSG tariff except as set forth below.

Distribution and Maintenance Charges –

1. Distribution Charge - ██████████ per therm delivered (██████████ per therm with current Sales and Use Tax)
2. Maintenance Charge - \$ ██████████ per therm delivered (\$ ██████████ per therm with current Sales and Use Tax)

PUBLIC VERSION

2.3 Billing And Payment – PSE&G will bill Holcim monthly for charges for CSG services in accordance with its Gas Tariff.

3. Approvals

3.1 NJBPU Approval – This Agreement is contingent upon approval by the New Jersey Board of Public Utilities.

4. Miscellaneous

4.1 Governing Law – This Agreement shall be governed by the law of the State of New Jersey without resort to principles of conflicts of law.

4.2 Assignment – Neither Party may assign this Agreement without the prior written consent of the non-assigning party, which shall not be unreasonably withheld or delayed. Without relieving itself of its obligations under this Agreement, either Party may transfer its interest to an affiliate with the prior consent of the other Party.

4.3 Notices – Notices under this Agreement shall be in writing and shall be sent as follows:

To Holcim:

Commodity Manager, Energy
211 Ann Arbor Rd.
Dundee MI 48131

TO: PSE&G

President
Public Service Electric and Gas Company
80 Park Plaza
Newark, NJ 07102

4.4 Entire Agreement; Amendments and Waivers – This Agreement, together with all attachments hereto, constitutes the entire agreement between the parties hereto and shall supersede and take the place of any and all agreements, documents, minutes of meetings, or letters concerning the subject matter hereof made, prior to the Effective Date of this Agreement.

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- 4.5 Construction – The headings and captions of the various articles and sections of this Agreement have been inserted solely for purposes of convenience, are not part of this Agreement, and shall not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Agreement. The term “including” when used herein shall mean “including, without limitation.” Wherever this Agreement the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require.
- 4.6 Third Party Beneficiaries – No individual or entity other than the Parties shall have any rights or claims under this Agreement.
- 4.7 No Waiver – The failure of either Party to seek redress for any breach, or to insist upon the strict performance, of any covenant or condition of this Agreement by the other shall not be, or be deemed to be, a waiver of the breach or failure to perform nor prevent a subsequent act or omission in violation of, or not strictly complying with, the terms hereof from constituting a default hereunder.
- 4.8 Multiple Counterparts – This Agreement may be executed in one or more counterparts, including facsimile pages which shall be deemed originals with the originals to be provided within a reasonable time, all of which shall together constitute one and the same instrument.
- 4.9 Cumulative Remedies – All rights and remedies of either Party are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not

PUBLIC VERSION

prejudice or impair the concurrent or subsequent exercise of other rights or remedies

4.10 Representation by Counsel; Mutual Negotiation – Each Party has been represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction and construction of the Parties, at arm's length with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed under seal on their respective behalf, by their respective duly authorized officers.

Public Service Electric and Gas Company

By: Jorge L. Cardenas

Name: Jorge L. Cardenas

Title: V.P. ASSET MANAGEMENT & CONT. SERVICES

Dated: 3/28/14

Holcim (US) Inc.

By: Jeffrey J. Ouhl

Name: JEFFREY J OUHL

Title: SVP MANUFACTURING

Dated: 3/19/14