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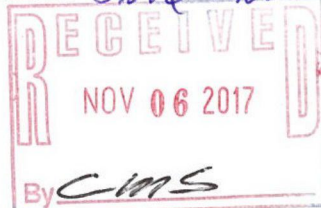
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BOARD OF PUBLIC UTILITIES

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November 3, 2017

Irene Kim Asbury, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
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Re: I/M/O the Petition of St. Peter's University Hospital, Inc. for a
Declaratory Ruling Pursuant to N.J.S.A. 52:14B-8 and
N.J.S.A. 2A:16-50
BPU Docket No. QO17050495

Dear Secretary Asbury:

We are in receipt of the November 1, 2017 comments submitted by the Division of Rate Counsel regarding the pending Petition of Saint Peter's University Hospital ("SPUH") for a declaratory ruling that its CHP facility, which is now being constructed, satisfies the statutory criteria for an on-site generation facility pursuant to N.J.S.A. 48:3-49 et seq. Rate Counsel's comments conclude that the CHP facility will meet the criteria for an on-site generation facility and, therefore, Rate Counsel has no objection to the granting of the requested relief.

SPUH appreciates Rate Counsel's statement of non-opposition to the relief requested in this matter. However, SPUH responds for the limited purpose of addressing Rate Counsel's continuing argument that municipal tax map analysis is relevant to on-site generation facility determinations. It is not, and the Board so held in its recent ruling regarding a similar application made on behalf of Cooper Hospital. *See, I/M/O the Petition of Cooper Hospital System for a Declaratory Ruling*, BPU Docket No. QO16070727 (Order dated April 21, 2017). There is no reason for the Board to depart from its proper rejection of municipal tax map analysis in *Cooper* in the pending matter or in any other.

Much of the factual and legal analysis set forth in Rate Counsel's comments is based upon the depiction of the SPUH facility on the current tax map of the City of New Brunswick. It is noteworthy that Rate Counsel was still able to reach the proper conclusion that the SPUH CHP facility satisfies the requisite EDECA requirements for an on-site generation facility even while applying the more restrictive municipal tax map standard. However, the fact remains that

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municipal tax map analysis is wholly irrelevant to determinations under N.J.S.A. 48:3-49 *et seq.* and apply only to determinations regarding whether solar facilities will be permitted to net meter their output.

The net metering rules, which incorporate municipal tax map analysis into “contiguity” determinations are, by their express terms, applicable solely to net metered solar facilities and have never been utilized to determine the regulatory status of an on-site cogeneration facility under N.J.S.A. 48:3-51. See, N.J.A.C. 14:8-4.1(b)(1), (which provides that the legal boundaries of a “property” housing a solar facility should be determined by reference to the official municipal tax map). Municipal tax maps are not referenced in the EDECA definition of an on-site generation facility, including the contiguity requirement, and there is no basis or authority for the Board to impose this additional requirement without specific Legislative authorization.

As a practical matter, if Rate Counsel’s suggested approach were to be adopted, few, if any, of the industrial facilities and colleges and universities that the Board previously determined to be on-site generation facilities could have satisfied this analysis as most, if not all, of these properties are subdivided on the relevant municipal tax maps into a multiplicity of lots. It is therefore not surprising that the manner in which a property is depicted on an official tax map has never been a factor in an on-site generation facility determination by the Board.

Further, as a matter of policy, Rate Counsel’s proposed use of municipal tax map analysis in this context is considerably out of step with the State’s energy policies. If adopted here and elsewhere, the municipal tax map analysis would needlessly frustrate the development of on-site generation facilities and the attainment of the State’s post-Sandy resilience goals, including the development of micro grids. Indeed, a stated “over-arching” goal of the Governor’s Updated Energy Master Plan is to eliminate precisely the sort of impediments to cogeneration and micro grid development that Rate Counsel would impose. The fact that the Petitioner is a hospital participating in the Energy Resilience Bank program casts further doubt on the merit and appropriateness of Rate Counsel’s position.

For the foregoing reasons, and for the reasons set forth in the Verified Petition, Saint Peter’s University Hospital respectfully requests the Board to issue the requested declaratory ruling in all of its particulars.

Respectfully submitted,

Steven S. Goldenberg



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