



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

IN THE MATTER OF THE PETITION OF PUBLIC	)	ORDER ON MOTIONS TO
SERVICE ELECTRIC AND GAS COMPANY FOR	)	INTERVENE OR
APPROVAL OF A GAS SYSTEM MODERNIZATION	)	PARTICIPATE AND FOR
PROGRAM AND ASSOCIATED COST RECOVERY	)	ADMISSION PRO HAC VICE
MECHANISM ("GSMP II")	)	AND PREHEARING ORDER
	)	WITH PROCEDURAL
	)	SCHEDULE
	)	
	)	DOCKET NO. GR17070776

**Parties of Record:**

**Danielle Lopez, Esq.**, Public Service Electric and Gas Company  
**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**Steven Goldenberg, Esq.**, Fox Rothschild, LLP, for New Jersey Large Energy Users Coalition  
**Christopher D. Miller, Esq.**, Maraziti Falcon, LLP, for Environmental Defense Fund

BY COMMISSIONER JOSEPH L. FIORDALISO:

**BACKGROUND:**

Gas System Modernization Program I Petition

On February 27, 2015, Public Service Electric and Gas ("PSE&G" or "Company") filed a petition with the New Jersey Board of Public Utilities ("Board") that requested approval to implement and administer a Gas System Modernization Program ("GSMP I") and to implement an associated cost recovery mechanism. GSMP I sought to invest in the replacement of cast iron mains, replace unprotected steel mains and services, abandon district regulators associated with cast iron and unprotected steel plant and relocate inside meter sets.

Following the review of discovery, testimony and transcripts, on November 2, 2015, PSE&G, Rate Counsel, and numerous interveners executed a stipulation of settlement ("Stipulation") resolving all of the issues in the GSMP I proceeding, which was approved by the Board by Order dated November 16, 2015.

## Gas System Modernization Program II Petition

On July 27, 2017, the Company filed a petition for Board approval of a continuation of the GSMP I and associated cost recovery mechanism ("GSMP II" or "Program"). PSE&G anticipates that GSMP II will be conducted over a five (5) year period from 2019 through 2023. The Company states that the GSMP II: (1) is comprised of gas utility projects designed to replace cast iron mains and unprotected steel<sup>1</sup> mains and services; (2) addresses the abandonment of district regulators associated with this cast iron and unprotected steel plant; (3) will rehabilitate large diameter elevated pressure cast iron; (4) includes upgrades to utilization pressure portions of the system to elevated pressure; (5) replaces limited amounts of protected steel and plastic mains; and (6) provides for the relocation of inside meter sets.

According to the petition, the GSMP II, as proposed, would result in the replacement of approximately 250 miles of main per year, with an estimated investment of approximately \$2.68 billion over the course of the five (5) years, or approximately \$536 million per year.<sup>2</sup> At this time, the Company anticipates these expenditures will result in the replacement of approximately 870 miles of unprotected cast iron main, 130 miles of elevated pressure cast iron main, 200 miles of unprotected/bare steel main, fifty (50) miles of unprotected cathodically protected steel and plastic main, and reinforcement of approximately 4,000 elevated pressure cast iron bell joints. The Company claims that this main replacement will result in approximately 266 abandoned district regulators, replacement of approximately 99,200 unprotected steel services, and the relocation of approximately 70,900 inside meter sets to the outside of buildings. Where appropriate, services will have excess flow valves installed for improved safety.

PSE&G is proposing a cost recovery mechanism for GSMP II that is consistent with the recently proposed Board Infrastructure Investment and Recovery regulations<sup>3</sup> and the GSMP I. The proposed capital expenditure forecast, the first base rate roll-in filing will not occur until December 31, 2019, for rates effective June 1, 2020. The Company also seeks a return on the approved investments using an after-tax weighted average cost of capital of 6.1735% based on a return on equity of 9.75% and a cost of debt of 4.1439%.

By Order dated September 22, 2017 ("September 22, 2017 Order"), the Board determined that the GSMP II petition described above should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated the undersigned as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the September 22, 2017 Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by October 13, 2017.

To aid in the setting of an appropriate schedule, Board Staff requested that the New Jersey Division of Rate Counsel ("Rate Counsel") and the Company circulate proposed procedural schedules. The Company and Rate Counsel prepared a proposed procedural schedule, which was forwarded to Board Staff on October 25, 2017.

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<sup>1</sup> For purposes of this petition, "unprotected steel" is steel that is not cathodically protected and includes both bare steel and coated steel.

<sup>2</sup> The Company represents that work required to complete the GSMP II will continue into the first six (6) months of a sixth (6) year of the Program, i.e., through June 30, 2024. The \$2.68 billion cost of this Program includes this work.

<sup>3</sup> Proposed New Subchapter: N.J.A.C. 14:3-2A, BPU Docket Number: AX17050469, Order dated June 30, 2017.

## THE MOTIONS:

### New Jersey Large Energy Users Coalition Motion to Intervene

By motion dated August 11, 2017, the New Jersey Large Energy Users Coalition ("NJLEUC"), an association whose members include large volume natural gas customers serviced by PSE&G, moved to intervene in this proceeding N.J.A.C. 1:1-16. NJLEUC was formed, in part, to monitor regulatory proceedings involving the State's electric and natural gas utilities, including PSE&G. Members of NJLEUC are large volume purchasers of natural gas distribution service from PSE&G and, therefore, have a significant interest in the outcome of this proceeding.

NJLEUC asserts that its interests with regard to PSE&G's GSMP II are unique from those of any other party, and as large end-use customers of PSE&G, the interests of NJLEUC members are substantially different from those of any other party seeking intervention or participation. NJLEUC further asserts that it has a unique perspective and insight regarding the potential impact, on large volume gas customers, of the relief sought by PSE&G in this proceeding.

NJLEUC also argues that fundamental fairness and due process considerations require that NJLEUC be afforded an opportunity to intervene in this proceeding, the outcome of which will have an impact on the reliability and cost of gas distribution service received from PSE&G by the members of NJLEUC. NJLEUC states that the issues to be decided in this proceeding substantially, specifically, and directly affect NJLEUC, making intervention appropriate.

NJLEUC points out that it has been granted intervenor status in prior PSE&G infrastructure and rate proceedings, including the GSMP I proceeding.

NJLEUC claims that its entry as a party would measurably and constructively advance this proceeding because of the unique status of its members as large end-use customers. NJLEUC further states that it will endeavor to work cooperatively with other parties in this proceeding in the interests of administrative efficiency and economy.

### New Jersey Large Energy Users Coalition Motion for Admission Pro Hac Vice

By motion dated August 11, 2017, NJLEUC, via Steven S. Goldenberg, Esq., also moved for the admission pro hac vice of Paul F. Forshay, Esq. The motion included a sworn affidavit by Mr. Forshay.

Mr. Goldenberg states that Mr. Forshay, is a member in good standing admitted to the bar of the District of Columbia, and has had significant experience representing the interests of large end-use customers, and that he has an attorney-client relationship with NJLEUC. By his affidavit, Mr. Forshay represents that he is associated with Mr. Goldenberg as New Jersey counsel of record, NJLEUC has requested his representation in this matter, and that he has experience representing large end-use customers before Federal Energy Regulatory Commission and the Board. He states that his experience includes involvement in the various PSE&G utility infrastructure proceedings brought before the Board, including GSMP I, Energy Strong and the 2017 Energy Efficiency filing. Mr. Forshay represents that he has paid the fees required by R. 1:20-1(b) and 1:28-2, and he agrees to abide by the other requirements for admission pro hac vice. On October 5, 2017, Mr. Forshay forwarded proof of payment of the fees required by R. 1:20-1(b) and 1:28-2 to Board Staff.

### AARP Motion to Participate

On September 27, 2017, AARP, Inc. ("AARP") filed a motion to participate in this matter. According to its motion, AARP is a non-governmental, non-profit and non-partisan organization whose interest is to protect the affordability, reliability, efficiency and safety of utility services for its New Jersey members. AARP argues that it has hundreds of thousands members aged fifty (50) and over residing in PSE&G's territory who purchase gas and gas-related service from New Jersey's regulated utilities and, therefore, will be substantially and specifically affected by this outcome of this proceeding. AARP asserts that its members are particularly vulnerable to the effects of utility rate increases and changes of service as many of their members spend a far greater proportion of their income on home energy costs than younger households and are living on fixed incomes. Therefore, AARP maintains that its members are unique from and not adequately represented by any other party, and the issues to be decided in the GSMP II proceeding will directly affect the quality of the lives of its members.

AARP further points out that it participated in the GSMP I proceeding, as well as other numerous energy policy proceedings, and its unique perspective will measurably and constructively advance this matter. It states that the motion is timely and will not delay or disrupt this proceeding. AARP asserts that fundamental fairness and due process considerations weighing favor of it being afforded an opportunity to fully participate in this matter, the outcome of which will have a significant impact on the cost of gas services and poses significant imminent risks to utility customers including the potential for irreparable harm to AARP members 'quality of life if gas service does not remain affordable.

### Creamer-Sanzari Joint Venture Motion to Participate

Creamer-Sanzari Joint Venture ("CSJV") filed a motion to participate in this matter on October 11, 2017. According to its motion, CSJV is a joint venture between J. Fletcher Creamer & Son, Inc. and Joseph M. Sanzari, Inc., two (2) New Jersey corporations in the business of heavy highway construction and utilities installation. CSJV points out that it was previously granted participant status in GSMP I due to its unique ability to provide the Board with critical insight as to the implications GSMP I would have for job creation in New Jersey, as well as an accurate assessment of the construction costs associated with the GSMP I, and recommendations concerning efficient solutions for its implementation.

In light of its participation in the GSMP I proceeding, CSJV seeks to participate in this matter. It asserts that the companies that constitute CSJV have decades of experience in New Jersey between them working with the utility industry, including the type of work necessary to implement GSMP II. It states that CSJV has employed a significant number of union workers from various trades to perform that work including laborers and operating engineers, and has performed installation work in connection with PSE&G's Energy Strong Program and to execute portions of GSMP I. CSJV claims that this extensive work with PSE&G gives it a unique understanding of the Company's exacting standards of quality, safety and detail in the installation and replacement of its utility infrastructure and of the scope, scale and complexity of the work necessary to implement the GSMP II.

CSJV further argues that it not only has a significant interest in the outcome of this matter, but will be uniquely affected by the outcome of the case in a manner that will assist the Board in its resolution of the petition. CSJV states that it will be able to leverage its substantial experience with utilities and PSE&G to provide the Board with valuable insight as to both the impact the GSMP will have for job creation in New Jersey, as well as a detailed, practical assessment of

the most effective strategies for the successful implementation of the GSMP II. In addition, CSJV indicates that its participation in this proceeding will contribute to the development of a complete record for consideration by the Board of these issues. CSJV states that its motion is timely and will not delay or disrupt the prosecution of this proceeding.

#### Ferreira Construction, Inc. Motion to Intervene or Participate

On October 12, 2017, Ferreira Construction Company, Inc. ("Ferreira") filed a motion to intervene or participate in this proceeding. According to its motion, Ferreira is a private construction company specializing in transportation infrastructures, utilities, marine work, buildings, interior renovations, solar installation and construction management which has been hired by PSE&G for past projects. Ferreira argues that it has a substantial interest in the outcome of the GSMP II because it specializes in large-scale heavy infrastructure projects and has completed a number of gas main installation and replacement projects, including those in connection with the Energy Strong Program and GSMP I that are the type of work contemplated by the GSMP II. In addition, Ferreira argues that knowing whether a multi-year program such as GSMP II will be approved by the Board is important for contractors such as Ferreira because it allows them to make investments in staff, material and equipment with greater certainty that a program for a shorter duration.

Ferreira states that there is no other party to the proceeding with a concrete and specific interest in the heavy infrastructure projects and attendant jobs that will be created by the GSMP II. Finally, Ferreira states that its intervention is not likely to cause any confusion or delay as it will coordinate with similarly situated parties as appropriate, and will abide by the proceeding schedule. Alternatively, Ferreira requests that if its motion to intervene is not granted, the Board grant it participant status pursuant to N.J.A.C. 1:1-16.6.

#### International Brotherhood of Electrical Workers and Local 855 of the United Association of Journeyman and Apprentices of the Plumbing and Pipefitting Industry Motion to Participate

On October 11, 2017, Local Union 94 of the International Brotherhood of Electrical Workers and Local 855 of the United Association of Journeymen and Apprentices of Plumbing and Pipefitting Industry (collectively, the "Unions") filed a motion to participate in this proceeding. In the motion, the Unions state that they represent more than 3,600 non-management employees who are involved in all aspects of operations at PSE&G. According to the motion, the members of the Unions will perform the work envisioned by the GSMP II as they have successfully been doing for than a year and half of the initial and ongoing GSMP I. Therefore, the Unions argue that the issues to be decided in this matter substantially, significantly and directly affect the Unions and their members. They further add that that their participation will not cause confusion or delay the matter.

#### Engineers Labor-Employer Cooperative Motion to Intervene

Engineers Labor-Employer Cooperative ("ELEC") filed a motion to intervene on October 13, 2017. ELEC states that it is a labor-management organization that promotes economic development, investments in infrastructure and construction to provide opportunities for developers, union contractors and members of the International Union of Operating Engineers Local 825. ELEC indicates in its motion that it is a unique organization because it is a partnership between employers and the Union, and seeks to find common ground and ways to improve the construction industry as a whole for the benefit of both labor and management. ELEC further asserts that it is in a unique position to provide insight on the impact of the GSMP

II from both a contractor and operating engineer perspective, speaking to the costs and feasibility of the planned energy infrastructure improvements, the related economic impact, and the impact of the future and long-term costs of the GSMP II, in addition to providing insight on the manpower requirements, the market for operating engineers and any additional specific training that may be necessary for operating engineers to perform work under the GSMP II.

ELEC claims that its members will also sustain a direct impact as a result of these proceedings because the planned replacement work proposed by the GSMP II will consist of construction work, including work performed by operating engineers utilized by ELEC member contractors. ELEC argues that its interest will add measurably and constructively to this proceeding because it can offer input on the market for operating engineers which will be used in the construction work under the GSMP II, the economic impact on contractors, operating engineers and the construction industry, as well as the financial aspects of the GSMP II, will add measurably and constructively to the scope of this proceeding.

ELEC also claims that it has a history of successful efforts on behalf of PSE&G and other energy and pipeline projects, including supporting the Company and testifying before the Board in the 2014 Energy Strong matter, participating as an intervenor in the GSMP I and routinely attending public meetings and supporting new pipelines throughout the region. It states its contracts have experience in large-scale, long-term construction projects and can provide information on the financial markets for borrowing for large-scale construction projects, such as the GSMP II. It asserts that, permitting it to intervene in this matter so that it can offer input on the market for operating engines, the economic impact on contractors, operating engineers and the construction industry, as well as the financial aspects of the GSMP II, will add measurably and constructively to this proceeding and providing a substantial benefit to the Board in determining the reasonableness and prudence of the GSMP II.

In addition, ELEC reiterates that its interests are not adequately represented by any other party, as it is in a unique position to provide insight on the impact of the GSMP II from both a contractor and operating engineer perspective, and that its intervention will not cause delay since its motion to intervene was filed in accordance with the deadline established by the Board.

New Jersey Laborers Employers Cooperation and Education Trust Motion to Intervene or Participate

New Jersey Laborers Employers Cooperation and Education Trust ("NJLECT") filed a motion to intervene or participate. NJLECT states that it is a nonprofit labor management fund that represents 25,000 construction laborers who are employed and have significant experience in building construction and heavy highway construction. NJLECT states that its board is comprised of representatives from large New Jersey construction companies. NJLECT represents that it has particular expertise in tracking construction projects, researching and providing market guidance in the construction industry and legislative analysis as relates to construction and infrastructure investment. NJLECT partners with all sectors of the construction industry, local businesses, community activists and government agencies, to research and promote effective economic development through investment in transportation and infrastructure.

NJLECT's indicates that its membership includes large-scale residential and commercial contractors whose projects and businesses will be directly impacted by the contemplated improvements to New Jersey's energy infrastructure. Mitigation efforts aimed at improving the

efficiency, safety and long-term costs associated with the delivery of gas will directly improve the sustainability of the residential and commercial projects built by NJLECET's membership.

NJLECET argues that the GSMP II will have a direct beneficial impact on job creation for NJLECET's membership. It also asserts that its members will be directly impacted both by any short-term increases in utility rate changes and by long-term efficiencies created by utility infrastructure improvement. NJLECET states that its membership represents large-scale consumers of energy, who will be directly impacted both by any short-term increases in utility rate changes and by long-term efficiencies created by utility infrastructure improvement. NJLECET further claims that its members' unique interests in energy costs, those costs' impact on the construction industry and related to NJLECET's members' direct financial interests related to job creation in the construction industry. The above-referenced interests of its membership are unique to the construction industry and those employed within, according to NJLECET. The interests are unique from and are not adequately represented by any other party to these proceedings, states NJLECET and citing to N.J.A.C. 1:1-16.1(a).

In addition, NJLECET asserts that its entry as intervenor or as participant would measurably and constructively advance this proceeding, because its members are uniquely situated to provide input related to large-scale construction financing and cost-benefit analysis; its members have a unique financial interest in GSMP II, both in the immediate benefit to construction employment and in the long-term cost savings to residential and commercial construction projects; its members represent large-scale consumers of energy who would be directly impacted by short term rate increases and in the long term costs of inadequate energy infrastructure. It further states that its entry as intervenor or as participant would promote better informed consideration of the costs and benefits of improving New Jersey's energy infrastructure.

#### Environmental Defense Fund Motion to Intervene

On October 13, 2017, the Environmental Defense Fund ("EDF") filed a motion to intervene. According to its motion, EDF is a membership organization whose mission is to preserve the natural systems on which all life depends. It states it has 14,000 members in New Jersey, and seeks practical solutions to resolve environmental problems. EDF claims its uses the power of markets to achieve beneficial environmental outcomes, and consistent with its organizational purpose is engaged in activities to facilitate cost-effective and efficient energy market designs that encourage investment to modernize the energy grid and increase energy efficiency.

EDF argues that it and its members have a direct and substantial interest in the issues raised in this proceeding and will be directly affected by the outcome. Over the past three years, EDF indicates that it has engaged in a focused set of scientific, technical and policy-oriented projects to develop, demonstrate and foster commercialization of advanced leak detection and data analytics methods for use by local gas distribution utilities. It points out that it is managing a project that uses Google Street View cars equipped with methane concentration analyzers to quantify methane leaks from distribution pipelines. The goals of this project are to demonstrate the benefits of state-of-the-art technological solutions, create pathways for the integration of leak quantification and advanced leak detection technology into utility operations, and to commercialize tools to assist utilities in planning and implementing leak abatement and leak-prone infrastructure replacement projects.

In collaboration with PSE&G, EDF states that it gathered leak flow rate data for sections of the utility's infrastructure targeted for replacement through a mobile leak survey using Google Street

View cars that were specially outfitted with methane sensors. EDF indicates that PSE&G shared information with EDF on the location and type of its pipelines, enabling the collection of leak flow rate data that could be spatially attributed to specific pipes targeted for replacement. PSE&G used this leak flow rate data to prioritize its pipeline replacement efforts after considering safety factors. The methodology used by PSE&G to integrate leak flow rate data into its pipe replacement prioritization scheme is described in a white paper titled "Integrating Leak Quantification into Natural Gas Utility Operations," published in Public Utilities Fortnightly in May 2017. EDF states that it has also been heavily engaged throughout the United States in reducing methane emissions stemming from distribution system pipeline leaks. This engagement, according to EDF, includes action in several states. It also indicates that it recently completed a collaborative pilot project to quantify gas leaked from Consolidated Edison Company of New York's non-hazardous Type 3 leak backlog and develop a prioritization scheme for the repair of those leaks. EDF points out that this expertise has been recognized by the Board in prior cases and cites to the GSMP I proceeding, wherein it was granted intervenor status.

EDF further asserts that it has significant experience in prior proceedings before the Board in which local gas distribution utilities seek approval for programs to abate leaks, replace leak-prone infrastructure and modernize gas delivery systems. It claims that its advocacy before the Board and deep technical expertise with leak detection and prioritization methods have provided benefits to utilities, their customers, safety and the environment in New Jersey.

EDF adds that, as in prior proceedings, its intervention will not cause undue delay or confusion and it will abide by the procedural schedule and other rulings in this matter.

#### **RESPONSES:**

On October 24, 2017, Rate Counsel filed its response to the motions. In its response, Rate Counsel indicates that it does not oppose the motions filed by NJLEUC, AARP, the Unions, CSJV and EDF. However, Rate Counsel objects to the motions to intervene filed by Ferreira, NJLECET and ELEC.

With regard to Ferreira, Rate Counsel states that Ferreira's economic interest in participating in PSE&G construction projects is not a legally protected right under Title 48. Thus, Rate Counsel asserts that Ferreira does not have a concrete and current interest that will be "specifically and directly" affected by the outcome of this matter. However, Rate Counsel does not object to the granting of participant status to Ferreira.

Rate Counsel also objects to the motion to intervene filed by NJLECET on the grounds that its members' interests in construction projects, either undertaken by PSE&G or resulting from infrastructure upgrades are not interests protected by Title 48. Accordingly Rate Counsel argues that NJLECET does not have a direct interest that will be substantially affected by these proceedings. However, Rate Counsel does not object to the granting of participant status to NJLECET. In response to this objection, by letter dated October 30, 2017, NJLECET indicated that it would withdraw its motion to intervene if it were granted participant status.

In addition, Rate Counsel objects to the motion to intervene filed by ELEC for the same reasons as set forth in its response to NJLECET's motion to intervene, in that it does not have a direct interest that would support intervention. Once again, Rate Counsel does not object to the granting of participant status to ELEC.



No other parties filed a response to the motions.

**DISCUSSION AND FINDINGS:**

**Motions to Intervene or Participate**

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 stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervener'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. See, Order, In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

After consideration of the papers and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), the members of NJLEUC who are customers of PSE&G will be directly affected by the outcome of this proceeding, I **HEREBY FIND** that NJLEUC has met the standards for intervention as it is an interest in this proceeding. Accordingly, having received no objections, I **HEREBY GRANT** the motion for intervention of NJLEUC pursuant to the authority granted to me by the Board under the September 22, 2017 Order.

With regard to the motions to participate filed by AARP, the Unions, CSJV and NJLECET<sup>4</sup>, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of AARP, the Unions, CSJV and NJLECET in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the motions to participate filed on behalf of AARP, the Unions, CSJV and NJLECET, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

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<sup>4</sup> As noted above, by letter dated October 30, 2017 and in light of Rate Counsel's objections, NJLECET withdrew its intervention request and instead sought participant status.

The arguments advanced by Ferreira focus on its economic interest in construction jobs which will be potentially created by the GSMP II. I am persuaded that Ferreira has years of experience in utility construction, including direct expertise in projects similar to those under consideration in this matter. However, I am not persuaded that the primarily pecuniary interests of Ferreira will add measurably to this proceeding. After consideration of the papers, I **HEREBY FIND** that the participation of a New Jersey-based and long established construction company, such as Ferreira, is likely to add an additional perspective to the case without causing undue delay or confusion. Accordingly, to allow Ferreira to share its expertise where appropriate, I **HEREBY GRANT** participant status to Ferreira, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

Likewise, the arguments advanced by ELEC primarily focus on economic arguments based on an assumption that its membership will be substantially affected by the outcome of this matter because they may be hired to perform the work proposed by the GSMP II. However, while I am persuaded that ELEC has significant experience in large-scale and long-term construction projects similar to the GSMP II, I am not persuaded that the primarily pecuniary interests of ELEC will add measurably to this proceeding.

After consideration of the papers, I **HEREBY DENY** the motion to intervene filed by ELEC, but **HEREBY FIND** that the participation by ELEC is likely to contribute additional perspectives to the case without causing undue delay or confusion. Accordingly, to allow ELEC to share their expertise where appropriate, I **HEREBY GRANT** participant status to ELEC, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

#### Motion for Admission Pro Hac Vice

I have reviewed NJLEUC's motion and the supporting affidavit of Mr. Forshay. I agree that this proceeding involves a complex field of law, and I am persuaded that Mr. Forshay specializes in this area and has an attorney-client relationship with NJLEUC. Having received no objections to the motion after due notice to the parties, I **FIND** that Mr. Forshay has satisfied the conditions for admission pro hac vice, has submitted to the Board proof of payment to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2, and therefore, Mr. Forshay **IS HEREBY ADMITTED** to practice before the Board pro hac vice in this matter provided that he shall:

- (1) Abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- (2) Consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;
- (3) Notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
- (4) Have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

In addition, I have reviewed the proposal for a preliminary schedule, after giving due consideration to the positions of Staff, Rate Counsel and the Company, I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

## **PREHEARING ORDER**

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

Through this proceeding, PSE&G seeks approval to implement and administer its GSMP II, and to implement up to \$2.68 billion in GSMP II investment across its gas service territory over five (5) years to replace cast iron mains, unprotected steel mains and services, and abandoned district regulators associated with cast iron and unprotected steel plant; and relocate inside meter sets. The Company proposes to implement the same cost-recovery methodology and rate design as used for the GSMP I, including: annual “roll-in” filings based on investment through December 31, 2019, with no deferred return or deferred depreciation for rates to be effective June 1, 2020. The Company proposes a return on the approved investments using an after-tax weighted average cost of capital of 6.1735% based on a return on equity of 9.75% and a cost of debt of 4.1439%.

#### **A. Issues to be Resolved**

- 1) The prudence, cost effectiveness and cost efficiency of the activities and programs proposed for the five and one half years of the proposed GSMP II;
- 2) The reasonableness and lawfulness of the proposed cost recovery mechanism; and
- 3) The reasonableness of the proposed rates.

### **2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:**

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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:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in PSE&G's service territory. Three (3) public hearings will be held in January 2018 with sessions at 4:30 p.m. and 5:30 p.m. at each location. Public hearings will be held in Newark, New Brunswick and Mt. Holly.

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

Evidentiary hearings will be held the week of March 26, 2018 starting at 9:00 a.m. on each day at the Board of Public Utilities, 44 South Clinton Avenue, Trenton, New Jersey. Dates will be determined based on the availability of the parties and myself.

5. **STIPULATIONS:**

The Staff of the Board of Public Utilities, the Division of Rate Counsel and PSE&G have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

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:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

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

9. **ORDER OF PROOFS:**

PSE&G has the burden of proof. The hearings will be conducted by topic (see point 12, below); within each topic, the hearings will be conducted in the following order:

First – PSE&G

Second – Rate Counsel

Third – Intervenors

Fourth – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

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

PSE&G will present the following two (2) witnesses: Wade Miller and Stephen Swetz. Additional witnesses may be identified by PSE&G as necessary for purposes of rebuttal or sur-rebuttal.

Rate Counsel will present the following five (5) witnesses: Andrea Crane, Edward McGee, David Dismukes, Julie McKenna and Kevin O'Donnell. Additional witnesses may be identified by Rate Counsel 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:**

None at this time.

14. **SPECIAL MATTERS:**

None at this time.

DATED:

11/9/17

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
COMMISSIONER

IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL  
OF A GAS SYSTEM MODERNIZATION PROGRAM  
AND ASSOCIATED COST RECOVERY MECHANISM ("GSMP II")  
DOCKET NO. GR17070776

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## **Exhibit A**

**IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL  
OF A GAS SYSTEM MODERNIZATION PROGRAM  
AND ASSOCIATED COST RECOVERY MECHANISM ("GSMP II")  
DOCKET NO. GR17070776**

### **Procedural Schedule**

**October 30, 2017:** Discovery conference

**December 6, 2017:** Settlement conference

**December 11, 2017:** Settlement conference

**January 4, 2018:** Settlement conference

**January 10, 2018:** Settlement conference

**January 17, 2018 (alternate date January 24, 2018), January 18, 2018 (alternate date January 23, 2018) and January 25, 2018 (alternate date February 6, 2018):** Public hearings

**January 19, 2018:** Deadline for filing Rate Counsel/Intervenor direct testimony

**January 29, 2018:** Deadline for propounding discovery on Rate Counsel/Intervenor testimony

**February 9, 2018:** Deadline for filing responses to discovery on Rate Counsel/Intervenor testimony

**February 15, 2018:** Deadline for Company to file rebuttal testimony

**February 26, 2018:** Deadline for propounding discovery on Company's rebuttal testimony

**March 1, 2018:** Deadline for responses to discovery on Company's rebuttal testimony

**Week of March 26, 2018:** Evidentiary hearings – with live sur-rebuttal in Trenton, subject to the Commissioner's availability

**To Be Determined:** Briefing schedule

Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 17:27-10.4, subject to the scheduled end dates.