

FWO
11/26/18

NEW JERSEY
NEW YORK

—LAW OFFICES—
DECOTIIS
DeCotiis, FitzPatrick, Cole & Giblin, LLP

GLENPOINTE CENTRE WEST
500 FRANK W. BURR BOULEVARD, SUITE 31
TEANECK, NEW JERSEY 07666

WILLIAM HARLA
WHARLA@DECOTIISLAW.COM
201.907.5205

RECEIVED
CASE MANAGEMENT

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Via Overnight Mail and Email

TELEPHONE: (201) 928-1100
TELEFAX: (201) 928-0588
WWW.DECOTIISLAW.COM

November 16, 2018

RECEIVED
MAIL ROOM

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Petition of Public Service Electric & Gas Company for Approval of its Clean Energy Future-Energy Efficiency (“CEF-EE”) Program on a Regulated Basis

BPU Docket Nos.: G018101112 & ~~E01012113~~

E01810113


Dear Secretary Camacho-Welch:

On behalf of Enel X North America, Inc. (“Enel X”), we submit herewith an original and ten (10) copies of a Notice of Motion to Intervene as a Party in the above-referenced matters, along with an accompanying Letter Brief, Certification, Proposed Form of Order and Certification of Service in support of the Motion.

Thank you for your attention to this matter.

Very truly yours,

**DECOTIIS, FITZPATRICK,
COLE & GIBLIN, LLP**

By: 
William Harla

CMS
Legal
P. Rogman, Esq.
S. Peterson

Encls.
WH/sh

cc: BPU Service List (via e-mail only)



DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100

Attorneys for Enel X North America, Inc.

RECEIVED
MAIL ROOM

NOV 19 2018

STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES
BOARD OF PUBLIC UTILITIES TRENTON, NJ

**I/M/O THE PETITION OF PUBLIC SERVICE
ELECTRIC & GAS COMPANY FOR APPROVAL
OF ITS CLEAN ENERGY FUTURE-ENERGY
EFFICIENCY (“CEF-EE”) PROGRAM ON A
REGULATED BASIS**

BPU Docket Nos.: G018101112
& E010121113

NOTICE OF MOTION TO
INTERVENE AS A PARTY

TO: Honorable Joseph L. Fiordaliso, Commissioner
Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

RECEIVED
CASE MANAGEMENT

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

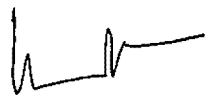
and

ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that, pursuant to N.J.A.C. 1:1-16.1, et seq., DeCotiis, FitzPatrick, Cole & Giblin, LLP, attorneys for Enel X North America, Inc. hereby move for an Order permitting it to intervene as a Party in the above-entitled proceedings with all the rights provided therefore, under all applicable rules, code and statutes, including, but not limited to, receive copies of all pleadings, papers, documents and exhibits and to introduce, submit and file direct testimony, pleadings, papers, documents and exhibits as appropriate, the right to participate in conferences, discovery, testimony and cross-examination, settlement, and to be heard on all issues before the Board;

PLEASE TAKE FURTHER NOTICE that, in support of its Motion, Enel X North America, Inc. shall rely upon the accompanying Letter Brief and Certification.

**DECOTIIS, FITZPATRICK,
COLE & GIBLIN, LLP**
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100
Enel X North America, Inc.

By: 

William Harla

Dated: November 16, 2018

NEW JERSEY
NEW YORK

RECEIVED
CASE MANAGEMENT

GLENPOINTE CENTRE WEST
500 FRANK W. BURR BOULEVARD, SUITE 31
TEANECK, NEW JERSEY 07666

NOV 19 2018

TELEPHONE: (201) 928-1100
TELEFAX: (201) 928-0588
WWW.DECOTIISLAW.COM

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

November 16, 2018

Via Overnight Mail and Email

RECEIVED
MAIL ROOM

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the Petition of Public Service Electric & Gas Company for Approval of its Clean Energy Future-Energy Efficiency (“CEF-EE”) Program on a Regulated Basis

BPU Docket Nos.: G018101112 & E010121113

Dear Secretary Camacho-Welch:

This law firm represents Enel X North America, Inc. (formerly known as EnerNOC, Inc.) (“Enel X”) in the above-referenced matters. Kindly accept this letter, in lieu of a more formal brief on behalf of Enel X in support of its motion to intervene in the above listed matters as a Party pursuant to N.J.A.C. 1:1-16.1 et seq. before the Board of Public Utilities (“BPU” or the “Board”). For the reasons set forth below, the BPU should grant Enel X, full Party intervenor status in these proceedings.

Enel X provides complete energy service solutions to businesses and consumers. Enel X partners with utilities nationwide to make the electric grid more affordable, reliable and clean. Since its first installation, Enel X has deployed multiple customer-sited projects representing over 1 MW of capacity that provide multiple services to save energy users money and support the local grid. (See Certification of Katie Guerry (“Guerry Cert.”) at ¶2, attached hereto).



One of Enel X's most noteworthy projects has been installing energy storage with solar and fuel cells for a new microgrid at the Marcus Garvey Village, an affordable housing complex covering nine city blocks in Brooklyn, New York that was ravaged by Hurricane Sandy. The Village had experienced among the highest rates of brownouts before the storm. Now, the Village has clean, back-up power and received the Energy Storage North America project of the year award.

Enel X North America's experience developing and operating energy storage projects will constructively assist the Board in evaluating, among other things, the value of proposed investments and important details around program design that will maximize program benefits, while limiting the costs for New Jersey. Enel X North America partners with hundreds of customers in New Jersey to help them manage their electricity use. Enel X North America partners with over a dozen utilities across North America to deliver clean energy programs and has unique experience that can add valuable perspective on program design.

Based on the aforementioned, Enel X's intervention is vital since its interests will be directly affected by the outcome of the proceeding. No other party represents its interests and only by intervening as a party to this proceeding can Enel X ensure that its interests are represented as the BPU considers this matter.

A. Background Facts and Procedural History

On January 13, 2008, L. 2007, c. 340 (the "Act") was signed into law based on the New Jersey Legislature's findings that energy efficiency and conservation measures must be essential elements of the State's energy future, and that greater reliance on energy efficiency and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and energy efficiency

industries are essential to maximize efficiencies. N.J.S.A. 26:2C-45. (See October 29, 2018 Board Order at pg. 1).

Pursuant to Section 13 of the Act, codified as N.J.S.A. 48:3-98.1 (a)(1), an electric or gas public utility may, among other things, provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis. Such investment in energy efficiency and conservation programs may be eligible for rate treatment approved by the Board, including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas. N.J.S.A. 48:3-98.1(b). Ratemaking treatment may include placing appropriate technology and program costs investments in the utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the Board. (Order at pg. 1).

On October 11, 2018, PSE&G filed a petition with the Board. In the filing, PSE&G seeks approval to implement twenty-two sub-programs, including seven residential subprograms, seven commercial and industrial ("C&I") subprograms, and eight pilot subprograms (collectively, "2018 EE Programs"). The total proposed investment for the 2018 EE Programs is approximately \$2.8 billion (\$2.5 billion for investment and approximately \$283 million in operating and expenses over the proposed 6-year term of the program). PSE&G proposes to recover costs associated with the program through Cost recovery would be made and tracked via a new CEF-EE Program component ("CEF-EEC") of its electric and gas Green Programs Recovery Charge ("GPRC"), which would be filed annually after the proposed initial period. In addition, PSE&G proposes a mechanism for recovering lost revenues and requests the Board to approve this mechanism. (Order at pg. 2).

B. Enel X Should Be Permitted To Intervene As A Party In These Proceedings.

In support of the instant application for intervention in the proceedings described above, Enel X respectfully submits that all factors for intervention set forth in N.J.A.C. 1:1-16.1, weigh in favor of the granting Enel X's application to intervene in all proceedings convened by the Board on the above referenced dockets. The standard for intervention in an administrative proceeding provides:

(a) Any person or entity not initially a party, who has a statutory right to intervene or who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene. [N.J.A.C. 1:1-16.1(a)].

When evaluating a motion for intervention, the following factors should be considered: (1) the nature and extent of the movant's interests in the outcome of the case; (2) determination of whether the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case; (3) the prospect of confusion or undue delay arising from the movant's inclusion; and, (4) any other appropriate matters. N.J.A.C. 1:1-16.3; see also Atlantic Employers Ins. Co. v. Tots & Toddlers Pre-School Day Care Center, Inc., 239 N.J. Super. 276, 280 (App. Div.), certif. den. 122 N.J. 147 (1990) (noting courts apply a liberal construction to intervention rules); State by Bontempo v. Lanza, 39 N.J. 595, 599 (1963), cert. den. 375 U.S. 45 (1964) (same); R. 4:33-1 (intervention as of right must be granted when "the applicant claims an interest relating to the ... transaction which is the subject of the action and ... the disposition of the action may as a practical matter impair or impede the ability to protect that interest ...).

As set forth above, Enel X meets each of the criteria set forth above. Here, PSE&G's CEF-EE Program proposes to commit up to \$2.5 billion in CEF-EE Program investment and proposes a \$283 million expense budget over the six-year term of the program. The proposal

includes 22 subprograms, including seven residential, seven C&I, and eight pilot subprograms. Customers in PSE&G's electric and/or gas service territory that meet criteria for each respective subprogram will be eligible to participate. PSE&G also proposes a decoupling mechanism ("Green Enabling Mechanism or "GEM") that will solve for lost revenue recovery. PSE&G proposes to become the exclusive provider of regulated EE programs. (See PSE&G's October 11, 2018 filing with the BPU, Petition, at ¶¶, 14, 26, 28).

Enel X is substantially, specifically and directly affected by the outcome of this proceeding because PSE&G's proposal would have a substantial impact across the energy service industry in the territory, including among our customers. Enel X has a unique expertise in developing demand response programs, including the types that PSE&G proposes: a "Non-Wires Alternative Pilot" and "Non-Pipes Solution Pilot". (Guerry Cert., ¶4). In addition to serving customers similar to those contemplated in PSE&G's filing in other jurisdictions, Enel X partners also with utilities in delivering energy services programs such as managing utility programs focused on electric and natural gas peak load management, including in neighboring states Pennsylvania and New York. (Guerry Cert., ¶5).

Programs such as those contemplated by PSE&G will join other Non-Wires and Non-Pipe Solutions that are growing in number and importance nationally, holding great promise for PSEG residents in New Jersey. With experience participating in and developing similar innovative programs elsewhere, Enel X has unique perspectives that will be useful to the BPU in evaluating and implementing PSE&G's proposals. Enel X has customers in the PSE&G territory, many of which participate as Demand Response ("DR") customers in the PJM Emergency DR programs. Integration of the PSE&G proposals with existing interests of customers on the system will be necessary for reliability and efficiency, and Enel X's experience

with customers in PSE&G territory will provide a unique perspective to accomplish those goals. Enel X is eager to implement sub-programs for PSE&G CEF-EE Programs. (Guerry Cert., ¶6).

Non-Wires solutions involve complex interactions among demand response, energy storage, interruptible electric vehicle charging and other DERs. Enel X's experience in other jurisdictions, and commercial interests with customers on the PSEG distribution system, warrant the granting of this intervention request and party status to Enel X. (Guerry Cert., ¶7). Finally, while there are competitors, both regulated and non-regulated, in this space, Enel X's individual experiences in and out of PSE&G's service territory prevent any competitors from being able to represent the unique interests of Enel X. (Guerry Cert., ¶8).

Enel X's full participation in this proceeding will contribute to the development of a complete record for consideration by the BPU. With the aforementioned principles in mind, Enel X should be granted the right to intervene in these proceedings. These interests will not be completely addressed by any other party in this proceeding. Moreover, Enel X's full participation in this proceeding will contribute to the development of a complete record for consideration by the Board, as well as to promote judicial economy. Finally, Enel X's intervention will not create any delay in this matter since this matter is at its inception. Enel X will abide by all scheduling orders in this proceeding. (Guerry Cert., ¶9).

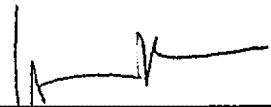
CONCLUSION

For the foregoing reasons, Enel X should be granted permission to intervene in these proceedings as a Party to ensure that its specific interests are appropriately represented and protected.

Respectfully submitted,

**DECOTIIS, FITZPATRICK,
COLE & GIBLIN, LLP**
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100
Attorneys for Enel X

By: _____


William Harla

WH/sh

cc: BPU Service List *(via email only)*

DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100

Attorneys for Enel X North America, Inc.

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

RECEIVED
MAIL ROOM
NOV 19 2018
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**I/M/O THE PETITION OF PUBLIC SERVICE
ELECTRIC & GAS COMPANY FOR APPROVAL
OF ITS CLEAN ENERGY FUTURE-ENERGY
EFFICIENCY (“CEF-EE”) PROGRAM ON A
REGULATED BASIS**

**BPU Docket Nos.: G018101112
& E010121113**

RECEIVED
CASE MANAGEMENT

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

I, Katie Guerry, of full age, do hereby certify as follows:

1. I am the Vice President, Regulatory Affairs North America of Enel X North America, Inc. (“Enel X”), which moves to intervene in this matter as a Party. I am familiar with the facts and circumstances concerning this matter and I make this Certification in support of and on behalf of Enel X’s Motion to Intervene.

2. Enel X provides complete energy service solutions to businesses and consumers. Enel X partners with utilities nationwide to make the electric grid more affordable, reliable and clean. Since its first installation, Enel X has deployed multiple customer-sited projects representing over 1 MW of capacity that provide multiple services to save energy users money and support the local grid.

3. In this proceeding, PSE&G’s CEF-EE Program proposes to commit up to \$2.5 billion in CEF-EE Program investment and proposes a \$283 million expense budget over the six-year term of the program. The proposal includes 22 subprograms, including seven residential,

seven C&I, and eight pilot subprograms. Customers in PSE&G's electric and/or gas service territory that meet criteria for each respective subprogram will be eligible to participate. PSE&G also proposes a decoupling mechanism ("Green Enabling Mechanism or "GEM") that will solve for lost revenue recovery. PSE&G proposes to become the exclusive provider of regulated EE programs. (See PSE&G's October 11, 2018 filing with the BPU, Petition, at ¶¶, 14, 26, 28).

4. PSE&G's proposal would have a substantial impact across the energy service industry in the territory, including among our customers. Enel X has a unique expertise in developing demand response programs, including the types that PSE&G proposes: a "Non-Wires Alternative Pilot" and "Non-Pipes Solution Pilot".

5. In addition to serving customers similar to those contemplated in PSE&G's filing in other jurisdictions, Enel X partners also with utilities in delivering energy services programs such as managing utility programs focused on electric and natural gas peak load management, including in neighboring states Pennsylvania and New York.

6. Programs such as those contemplated by PSE&G will join other Non-Wires and Non-Pipe Solutions that are growing in number and importance nationally, holding great promise for PSEG residents in New Jersey. With experience participating in and developing similar innovative programs elsewhere, Enel X has unique perspectives that will be useful to the BPU in evaluating and implementing PSE&G's proposals. Enel X has customers in the PSE&G territory, many of which participate as Demand Response ("DR") customers in the PJM Emergency DR programs. Integration of the PSE&G proposals with existing interests of customers on the system will be necessary for reliability and efficiency, and Enel X's experience with customers in PSE&G territory will provide a unique perspective to accomplish those goals. Enel X is eager to implement sub-programs for PSE&G CEF-EE Programs.

7. Non-Wires solutions involve complex interactions among demand response, energy storage, interruptible electric vehicle charging and other DERs. Enel X's experience in other jurisdictions, and commercial interests with customers on the PSEG distribution system, warrant the granting of this intervention request and party status to Enel X.

8. Finally, while there are competitors, both regulated and non-regulated, in this space, Enel X's individual experiences in and out of PSE&G's service territory prevent any competitors from being able to represent the unique interests of Enel X.

9. Accordingly, Enel X requests permission to intervene in the matter as a Party, with the full rights and obligations of a Party, to participate in conferences, discovery, testimony and cross-examination, settlement, and to be heard on all issues before the Board. Enel X understands that it must take the proceedings as it finds them.

10. All correspondence, filings, discovery, reports, and documentation generally regarding this matter should be sent to the following persons:

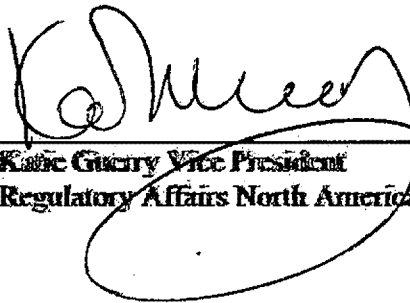
William Harla, Esq.
DeCotiis, FitzPatrick, Cole & GIBLIN, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
Email: wharla@decotiislaw.com

Alice M. Bergen, Esq.
DeCotiis, FitzPatrick, Cole & GIBLIN, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
Email: abergen@decotiislaw.com

Katie Guerry
Vice President
Regulatory Affairs North America
Enel X North America, Inc.
One Marina Park Drive – Boston, MA 02210 – USA
(617) 366-6607
Email: katie.guerry@enel.com

~~Kevin Kaufmann~~
Manager
Regulatory Affairs
Enel X North America, Inc.
One Marina Park Drive – Boston, MA 02210 – USA
(617) 366-6607
~~Email: kevin.kaufmann@enel.com~~

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.


Katie Gucry Vice President
Regulatory Affairs North America

Dated: November 16, 2018

DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100

Attorneys for Enel X North America, Inc.

RECEIVED
MAIL ROOM

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**I/M/O THE PETITION OF PUBLIC SERVICE
ELECTRIC & GAS COMPANY FOR APPROVAL
OF ITS CLEAN ENERGY FUTURE-ENERGY
EFFICIENCY (“CEF-EE”) PROGRAM ON A
REGULATED BASIS**

BPU Docket Nos.: G018101112
& E010121113

RECEIVED
CASE MANAGEMENT

ORDER

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

This matter having been presented by DeCotiis, FitzPatrick, Cole & Giblin, LLP, attorneys for Enel X North America, Inc., on notice to the Board of Public Utilities (and the Honorable Joseph L. Fiordaliso) and the parties and persons set forth on the attached Service List, and having considered the motion and other documents on file in this matter, including the Letter Brief and Certification submitted in support of the motion, and other good cause appearing,

IT IS on this _____ day of _____, 2018,

ORDERED that Enel X North America, Inc. is hereby granted leave to intervene and fully participate in the above-entitled matter as a Party, and that it be placed on the Service List for receipt of all documents, papers, discovery materials, exhibits, and notifications of all hearings, conferences, presentations and all other proceedings in this matter.

Hon. Joseph L. Fiordaliso,
Commissioner

DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP

Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100

Attorneys for Enel X North America, Inc.

RECEIVED
MAIL ROOM

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**I/M/O THE PETITION OF PUBLIC SERVICE
ELECTRIC & GAS COMPANY FOR APPROVAL
OF ITS CLEAN ENERGY FUTURE-ENERGY
EFFICIENCY (“CEF-EE”) PROGRAM ON A
REGULATED BASIS**

BPU Docket Nos.: G018101112
& E010121113

CERTIFICATION OF SERVICE

I, William Harla, an Attorney at Law of the State of New Jersey, hereby certifies as follows:

1) On November 16, 2018, I caused to be served via overnight mail and email an original and ten (10) copies of the enclosed Notice of Motion to Intervene as a Party, the supporting Letter Brief and Certification on the Secretary to the New Jersey Board of Public Utilities; and

2) On the same date, I also caused to be served by electronic mail a copy of the enclosed Notice of Motion to Intervene, the supporting Letter Brief and Certification, on each party on the Service List.

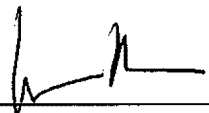
RECEIVED
CASE MANAGEMENT

NOV 19 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

**DECOTHS, FITZPATRICK,
COLE & GIBLIN, LLP**
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
(201) 928-1100
*Attorneys for
Enel X North America, Inc.*

By:  _____
William Harla

Dated: November 16, 2018