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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

November 26, 2018

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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

**Re: In The Matter Of The Petition Of Public Service Electric and Gas Company
For Approval Of Its Clean Energy Future – Electric Vehicle And Energy
Storage (“CEF-EVES”) Program On A Regulated Basis
BPU Docket No. EO18101111**

Dear Secretary Camacho-Welch,

Public Service Electric and Gas Company (“PSE&G”), through its undersigned counsel, hereby submits an original and ten (10) copies of its Opposition to Motion for Leave to Late File and Motion to Intervene of Sunrun Inc. pursuant to *N.J.A.C. 1:1-12.2* the above-referenced matter. Pursuant to the Board’s Order Designating a Commissioner, Setting a Bar Date and Manner of Service, issued on October 29, 2018 in this proceeding, Commissioner Upendra Chivukula has been designated as the presiding officer in this proceeding and is authorized to rule on all motions, including this motion to intervene.

Copies of this filing have been served electronically on all parties. Kindly acknowledge receipt of this letter by date stamping and returning the designated copy in the enclosed self-addressed envelope.

Should you have any questions concerning this matter, please feel free to contact me directly.

Sincerely,

A handwritten signature in blue ink that reads "Matthew Weissman".

Matthew M. Weissman

A handwritten signature in black ink that reads "Case Manager".

cc: Commissioner Upendra Chivukula w/ enclosure
Service List w/ enclosure

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In The Matter Of The Petition Of	:	BPU Docket No. EO18101111
Public Service Electric and Gas	:	
Company For Approval Of Its Clean	:	Opposition to Motion for Leave to
Energy Future – Electric Vehicle And	:	Late File and Motion to Intervene of
Energy Storage (“CEF-EVES”)	:	Sunrun Inc.
Program On A Regulated Basis	:	
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In accordance with *N.J.A.C. 1:1-12.2*, Public Service Electric and Gas Company (“PSE&G” or “Company”) hereby submits this response in opposition to the Motion for Leave to Late File and Motion to Intervene of Sunrun Inc. (“Sunrun”). As more fully described below, PSE&G respectfully requests that the motion to intervene of Sunrun be denied. In support of this requested relief, PSE&G states as follows:

I. Background Statement

1. On October 11, 2018, PSE&G filed a Verified Petition in this proceeding seeking approval of the Board of Public Utilities (“BPU” or “Board”) for its Clean Energy Future – Electric Vehicle and Energy Storage Program (“CEF-EVES Program” or “Program”). On October 29, 2018, the Board issued an Order Designating a Commissioner, Setting a Bar Date and Manner of Service in this proceeding (“October 29 Order”), which determined that the Company’s Petition should be retained by the Board for hearing, designated Commissioner Upendra Chivukula as the presiding officer and authorized Commissioner Chivukula to control the conduct of this proceeding, rule on all motions, and modify any schedules that may be set.

2. The October 29 Order further directed any entities seeking to intervene or participate in the proceeding to file the appropriate application with the Board by November 13, 2018. A belated motion to intervene was submitted by Sunrun on November 16, 2018.

3. PSE&G respectfully submits its opposition to this motion to intervene pursuant to *N.J.A.C. 1:1-12.2(b)*, which provides a ten-day period for responses to motions, and requests that Sunrun's motion to intervene be denied. PSE&G further submits that the interest of Sunrun is not even sufficient to permit participation as an alternative to intervenor status. However, at most, Sunrun's involvement should be limited to participation status. To the extent that Sunrun is granted intervention or participation status, the Company respectfully requests that Sunrun's involvement in this proceeding be limited to only issues concerning the energy storage component of the CEF-EVES Program. Further, should Sunrun be permitted to intervene or participate in this proceeding, the Company respectfully requests that Sunrun be prohibited from raising issues related to behind-the-meter ("BTM") assets or technology in this proceeding. As set forth below, BTM technology is beyond the scope of this proceeding and the introduction of this extraneous topic would result in confusion of the issues and undue delay in this proceeding.

II. Standards Applicable to Motions to Intervene and/or Participate

4. *N.J.A.C. 1:1-16.1(a)* states that a person or entity may seek to intervene in a proceeding if it "has a statutory right to intervene or...will be substantially, specifically and directly affected by the outcome" of the proceeding. *N.J.A.C. 1:1-16.3(a)* provides that the following factors shall be considered when ruling upon a motion to intervene:

- (i) the nature and extent of the movant's interests in the outcome of the case;
- (ii) whether or not the movant's interest is sufficiently different than that of any party so as to add measurably and constructively to the scope of the case;

- (iii) the prospect of confusion or undue delay arising from movant's inclusion; and
- (iv) other appropriate matters.

5. In addition, under *N.J.A.C.* 1:1-16.5, every motion for leave to intervene shall be treated, in the alternative, as a motion for permission to participate. Under *N.J.A.C.* 1:1-16.6, a "participant" must have a significant interest in the outcome of a case and, in ruling on a request to participate, the trier of fact is required to determine whether the participant's interest "is likely to add constructively to the case without causing undue delay or confusion." Under *N.J.A.C.* 1:1-16(c), participation is limited to (i) the right to argue orally, (ii) the right to file a statement or brief, (iii) the right to file exceptions to the initial decision with the agency head, or (iv) all of the above. Sunrun has not set forth a sufficient basis to be accorded either intervenor or participant status in this proceeding.

III. Sunrun Has Not Met the Standards for Intervention or Participation in this Proceeding

6. As an initial matter, Sunrun failed to comply with the November 13, 2018 deadline set in the October 29 Order for interested persons and entities to file motions to intervene in this proceeding. In its motion, Sunrun states that it failed to comply with this filing deadline because it "misunderstood the date for filing for intervention in this docket as November 16, 2018 based on its understanding of the relationship between this proceeding and PSE&G's related Clean Energy Future – Energy Efficiency Program...and Clean Energy Future – Energy Cloud Program..., for which the Board had established November 16, 2018 as the deadline for intervention."¹ The October 29 Order unequivocally stated that motions to intervene/participate in this matter were due on November 13, 2018. Given that Sunrun failed to

¹ Motion at ¶ 2.

comply with this unambiguous deadline, and does not have good cause for an extension, its belated motion to intervene should be denied on this basis alone.

7. Further still, it is obvious from Sunrun's motion that it seeks to improperly expand the scope of this docket to include consideration of BTM technology, not to protect any unique interest it may have in the issues contained in PSE&G's Petition. Specifically, Sunrun submits that "...the Board should explore opportunities for deploying a residential BTM battery storage program as part of or in addition to those proposed in the CEF-EVES Program...."² Thus, it appears that the only, or primary, issue that Sunrun intends to raise in this proceeding is the use of BTM assets. As Sunrun acknowledges, BTM assets are not included in PSE&G's proposed Program.³ To allow Sunrun to participate by virtue of its BTM platform would improperly enlarge the scope of this proceeding and present a serious risk of confusion and undue delay.

8. Nor does Sunrun have any particularized interest that justifies its intervention. Rather, Sunrun's motion provides nothing more than its vague and attenuated business interest in this proceeding as a "developer of residential solar and energy storage operating in the PSE&G service territory."⁴ Sunrun does not allege any facts to show any interest in the Company's Program. Rather, as noted above, it appears Sunrun's only interest in this proceeding is the introduction of BTM technology, which is beyond the scope of the proceeding. Sunrun's attenuated business interest in the CEF-EVES Program proposed in the Company's Petition is insufficient to permit Sunrun to intervene or participate in this proceeding.

² Motion at ¶ 7.

³ Motion at ¶ 6.

⁴ Motion at ¶ 8.

9. Further, Sunrun does not allege that it is currently engaged in the electric vehicle market in any way or that it has any plans or commitments to enter the market at any point in the future. As such, Sunrun has failed to show that it has any interest whatsoever in the electric vehicle component of the Program. Therefore, Sunrun should not be permitted to intervene or participate in this proceeding.

IV. Conclusion

In sum, Sunrun has failed to establish that it is entitled to intervene in this proceeding. Sunrun's motion makes clear that it is only interested in raising one issue in this proceeding: the inclusion of residential BTM assets. As residential BTM is beyond the scope of this proceeding, permitting Sunrun to intervene to raise this issue would only cause confusion of the issues and result in the undue delay and an improper overexpansion of this proceeding. Accordingly, PSE&G respectfully requests that the motion to intervene submitted by Sunrun be denied. In the alternative, PSE&G respectfully requests that Sunrun be limited to participant status, which will afford both Sunrun the opportunity to voice its position over the need to develop residential BTM in order to achieve the State's clean energy goals. To the extent that Sunrun is granted intervention or participation status, the Company respectfully requests that its involvement in this proceeding be limited to only issues concerning the energy storage component of the CEF-EVES Program. As indicated above, Sunrun has no business interests in the electric vehicle market and an attenuated connection to the energy storage area, which at best warrants only a limited participant role involving the energy storage component of the CEF-EVES Program. Further, should Sunrun be permitted to intervene or participate in this proceeding, the Company respectfully requests that Sunrun be prohibited from raising issues related to BTM technology or

assets, as this issue is beyond the scope of the proceeding and would only serve to cause confusion of the issues and undue delay in this proceeding.

Respectfully submitted,

By:



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In The Matter Of The Petition Of Public
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Approval Of Its Clean Energy Future – Electric
Vehicle And Energy Storage (“CEF-EVES”)
Program On A Regulated Basis

BPU DOCKET NO.
EO18101111

CERTIFICATION OF SERVICE

I hereby certify that on this date a copy of the foregoing response was served by electronic service on all parties set forth on the attached service list. I further certify that on this date two copies of this answer in opposition has been sent via Federal Express for filing to the Board of Public Utilities.



Justin B. Incardone

Dated: November 26, 2018