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ENERGY

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF THE SECOND ENERGY STRONG PROGRAM (ENERGY STRONG II)	)	PREHEARING ORDER WITH PROCEDURAL SCHEDULE AND ORDER ON MOTIONS TO INTERVENE OR PARTICIPATE AND FOR ADMISSION PRO HAC VICE
	)	
	)	DOCKET NOS. EO18060629 and GO18060630

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**Matthew M. Weisman, Esq.**, Public Service Electric and Gas Company  
**Steven S. Goldenberg, Esq.**, Giordano, Halleran and Ciesla, P.C., for New Jersey Large Energy Users Coalition  
**Janine Bauer, Esq.**, Szaferman, Lakind, Blumstein & Blader, P.C., for AARP, Inc.

BY PRESIDENT JOSEPH L. FIORDALISO:

**BACKGROUND**

By Order<sup>1</sup> dated May 21, 2014, the New Jersey Board of Public Utilities ("Board") authorized Public Service Electric and Gas Company ("PSE&G" or "Company") to implement its Energy Strong Program. Pursuant to the Energy Strong Order, PSE&G was approved to invest up to \$1 billion (\$0.6 billion electric and \$0.4 billion gas), to be recovered through future base rate adjustments, to harden its infrastructure, thereby making it less susceptible to damage from wind, flying debris and water damage in anticipation of future Major Storm Events<sup>2</sup> and to strengthen the resiliency of the Company's delivery system.<sup>3</sup>

<sup>1</sup> In re the Board's Review of the Petition of Public Service Electric and Gas Company for Approval of the Energy Strong Program, BPU Docket Nos. E013020155 and G013020156 (May 21, 2014) ("Energy Strong Order").

<sup>2</sup> "Major Storm Event" is defined as a sustained impact on or interruption of utility service resulting from conditions beyond the control of the utility that affects at least 10 percent of the customers in an area. In re the Board's Establishing a Generic Proceeding to Review the Prudency of Costs Incurred by NJ Utility Companies in Response to Major Storm Events in 2011 and 2012, BPU Docket No. AX 13030196 (March 20, 2013) at 2.

<sup>3</sup> The Company was to invest an additional \$220.0 million into the Energy Strong Program - Electric

The Energy Strong Order also approved a cost recovery mechanism that allowed for semi-annual rate adjustments for spending related to electric Energy Strong Program investments and annual rate adjustments for spending related to gas Energy Strong Program investments.

### **Energy Strong II Program Petition**

On June 12, 2018, PSE&G filed a petition for approval to implement the next phase of its Energy Strong Program ("Energy Strong II" or "Program") and an associated cost recovery mechanism. The Company proposed a five-year program with a total investment level of approximately \$2.5 billion. PSE&G states that the Program aims to improve the reliability and resiliency of the Company's electric and gas systems by rebuilding critical electrical equipment, installing stronger poles, deploying advanced technology, building backup pipes, modernizing critical gas equipment, and improving customer service.

According to the petition, the proposed Program is consistent with the Board's rules on Infrastructure Investment Programs ("IIP"), promulgated in N.J.A.C. 14:3-2A. Consistent with the IIP regulations, PSE&G states that the Program aims to enhance safety, reliability, and/or resiliency through four electric and two gas subprograms. The Company proposes to conduct the Program from March 1, 2019 through February 29, 2024.

PSE&G projects that the first base rate adjustment filings related to the Program will be in September 2020 for electric rates and March 2022 for gas rates. The Company also proposes a rate filing no later than September 15, 2024 comprised of all actual cost data for rates effective January 1, 2025. Costs to be included in rates will include depreciation/amortization expense, return on the net investment, and the impact of any tax adjustments applicable to the Program.

The Company has forecasted cumulative impact is a monthly increase of \$4.04 for the typical electric residential customer and \$4.98 for the typical gas residential customer. The total impact for a combined typical electric and gas customer would average about one percent per year over the five year Program.

By Order dated July 25, 2018 ("July 2018 Order"), the Board determined that the Energy Strong II petition should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated me as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings, and establish and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. The July 2018 Order further directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by August 17, 2018.

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 received by Board Staff on October 15, 2018 and October 26, 2018, respectively.

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related to substations which would not be recoverable through the Energy Strong Program rate recovery mechanism.

## Motions

### New Jersey Large Energy Users Coalition ("NJLEUC")

By motion dated June 22, 2018, the NJLEUC, an association whose members include large volume electric and natural gas customers serviced by PSE&G, moved to intervene in this proceeding pursuant to 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 electric and 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 Energy Strong II are unique and substantially different from those of any other party seeking intervention, and as large end-use customers of PSE&G its members will be directly affected by the proposed multi-billion-dollar infrastructure upgrades. NJLEUC further asserts that it has a unique perspective and insight regarding the potential impact on large volume electric and gas customers of the significant rate 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 and electric 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 regulatory, infrastructure and rate proceedings, including Energy Strong and the Company's most recent base rate 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.

By motion dated June 22, 2018, 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 rate and infrastructure proceedings brought before the Board. 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 19, 2018, Mr. Forshay forwarded proof of payment of the fees required by R. 1:20-1(b) and 1:28-2 to Board Staff.

### AARP, Inc. ("AARP")

On August 14, 2018, AARP filed a motion to intervene 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 50 and over residing in PSE&G's territory who purchase electric and gas service from PSE&G and, therefore, will be substantially and specifically affected by the 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 points out that Rate Counsel's statutory duty is to represent all ratepayers, whereas AARP represents the specific interests of its members who are over 50, many of whom live on fixed and limited household budgets. AARP states its purpose in intervening in this proceeding is to represent the interests of its members who purchase gas and electric from PSE&G who will be directly affected and impacted monetarily by the Company's gas and electric service rates and tariffs.

AARP further points out that it was granted intervenor status in Energy Strong, as well as other base rate, infrastructure investment, modernization and storm cost recovery proceedings. It also indicates that it actively participated in energy policy proceedings, including the State's Energy Master Plan, legislative initiatives leading to and following the adoption of the Electric Discount and Energy Competition Act, and numerous deregulation and/or energy proceedings before the Board or state legislature. AARP states that it has advocated for and actively participated in the establishment of the Universal Service Fund ("USF") to provide affordable utility rates for low and fixed income customers, and is a member of the USF working group.

AARP adds that its unique perspective will measurably and constructively advance this matter, and will not cause or delay this proceeding if its motion is granted. AARP asserts that fundamental fairness and due process considerations weigh in favor of it being afforded an opportunity to intervene in this matter, the outcome of which poses significant and imminent risks to all of PSE&G's customers including the potential for irreparable harm to ratepayers' quality of life. Based on all of the foregoing, and because PSE&G's gas and electric service and rates will affect the quality of lives of its members, AARP has a direct, substantial, specific and immediate interest in the outcome of this proceeding and cannot be adequately represented by any other party.

### Engineers-Labor Cooperative ("ELEC")

ELEC filed a motion to intervene on August 17, 2018. 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 Energy Strong II from both a contractor and operating engineer perspective, as it can speak 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 Program, 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 Energy Strong 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 Energy Strong 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 Energy Strong II, the economic impact on contractors, operating engineers and the construction industry, as well as the financial aspects of the Program, and therefore 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 in the Gas System Modernization Program II proceedings, routinely attending public meetings and supporting new pipelines throughout the region. It states its contractors 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 Energy Strong 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 Program, will add measurably and constructively to this proceeding and providing a substantial benefit to the Board in determining the reasonableness and prudence of Energy Strong 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 Energy Strong 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 ("NJLECET")

NJELECT filed a motion to intervene or participate on August 17, 2018. NJLECET 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. NJLECET states that its board is comprised of representatives from large New Jersey construction companies. NJLECET represents that it has particular expertise in tracking construction projects, researching and providing market guidance in the construction industry and legislative analysis as it relates to construction and infrastructure investment. NJLECET 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.

NJLECET'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. NJELECT claims mitigation efforts aimed at improving the efficiency, safety and long-term costs associated with the delivery of gas and electricity will directly improve the sustainability of the residential and commercial projects built by its membership.

NJLECET argues that Energy Strong 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 have unique interests related to energy costs' impact on the construction industry and related to NJLECET's members' direct financial interests in construction industry job creation. 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 Energy Strong 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. NJLECET adds that it will cooperate with other parties to ensure that a decision is made in full view of all relevant facts.

#### Ferreira Construction Company Inc. ("Ferreira")

On August 17, 2018, Ferreira filed a motion for leave to intervene or participate. According to its motion, Ferreira is a private construction company specializing in transportation infrastructure, utility-related construction, marine work, buildings, interior renovations, solar installation and construction management. Ferreira argues that it has a substantial interest in the outcome of Energy Strong II because PSE&G indicated that it anticipates using outside contractors, such as Ferreira, for much of the planned replacement work under this program. Ferreira states it specializes in the large-scale heavy infrastructure projects that are contemplated by Energy Strong II. In addition, Ferreira argues that knowing whether a multi-year program such as Energy Strong 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.

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 Energy Strong 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 procedural schedule. Alternatively, Ferreira requests that if its motion to intervene is not granted, the Board should grant it participant status pursuant to N.J.A.C. 1:1-16.6.

#### Jersey Central Power and Light Company ("JCP&L")

On August 9, 2018, JCP&L filed a motion to participate. According to its motion, JCP&L is an electric utility primarily engaged in the purchase, transmission, distribution and sale of electric energy and related utility services to approximately 1.1 million residential, commercial and

industrial customers located within 13 counties and 236 municipalities of the State of New Jersey.

JCP&L argues that the Board's decision in this matter will have a precedential effect not only on PSE&G, but also New Jersey's other electric and gas utilities, including JCP&L and its customers. A variety of issues that will be addressed in this case may have an impact on JCP&L by serving as precedent for JCP&L. JCP&L will therefore likely be directly and specifically affected by the relief provided in this proceeding.

According to JCP&L, its service territories, customers, and operations are distinct from other parties or participants in this case. Thus, JCP&L claims no other party will represent the interests of JCP&L in this case. JCP&L indicates it has a history of coordinating its activities in dockets at the Board with other similar entities where appropriate. JCP&L represents it will coordinate its representation with other similarly situated entities in this matter to the extent it finds such action appropriate. JCP&L also states that due to its experience in the electric industry, its participation is likely to add constructively to the proceeding. JCP&L further represents it will abide by any schedule set for this proceeding and the granting of its motion will not cause undue delay or confusion.

#### Creamer-Sanzari Joint Venture ("CSJV")

CSJV filed a motion to participate in this matter on August 17, 2018. According to its motion, CSJV is a joint venture between J. Fletcher Creamer & Son, Inc. and Joseph M. Sanzari, Inc., two New Jersey corporations in the business of heavy highway construction and utilities installation. CSJV points out that it has a unique ability to provide the Board with critical insight as to the implications Energy Strong II would have for the improvement and hardening of utility infrastructure, job creation and retention in New Jersey, as well as an accurate assessment of the construction costs associated with Energy Strong II, and recommendations concerning efficient solutions for its implementation.

CSJV 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 Energy Strong 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 Energy Strong and the Gas System Modernization Program. 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 Energy Strong 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 Program 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 Energy Strong 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.

Local Union 94 of the International Brotherhood of Electrical Workers ("IBEW")

On August 17, 2018, IBEW filed a motion to participate in this proceeding. In the motion, the IBEW Local Union 94 states that it represents thousands of non-management employees who are involved in all aspects of operations at PSE&G, and has approximately 2,200 members who are employed in electric distribution and transmission, gas distribution and appliance service, and other work in support of those operations. According to the motion, the members of IBEW Local Union 94 are part of PSE&G's skilled workforce and will perform the work envisioned by Energy Strong II as they have successfully been doing work for Energy Strong and other PSE&G ongoing modernization initiatives. Therefore, IBEW Local Union 94 argues that the issues to be decided in this matter substantially, significantly and directly affect it and its members. It adds that its participation will not cause confusion or delay the matter.

Henkels & McCoy, Inc. ("H&M")

H&M filed a motion to participate late on August 22, 2018<sup>4</sup>. H&M states that it is a leading utility construction firm providing critical infrastructure for the power, gas distribution and communications markets throughout North America. Over the past five (5) years, H&M indicates it has provided more than 1.4 million hours of craft labor, with 1,800 employees, to support PSE&G in its Energy Strong initiatives in power transmission, distribution and substation builds, as well as gas distribution construction services. H&M argues its broad experience in all areas of utility construction will constructively assist the Board in evaluating, among other things, the value of continuity in continuing the Energy Strong initiative without the need to stop/start the program. H&M claims PSE&G's ability to forge long term commitments to its Energy Strong initiative and its contractor community provides continuous job opportunities for New Jersey residents. This benefits the state by assuring that the most competent and committed talent stay in New Jersey, according to H&M. H&M adds that maintaining an experienced and trained New Jersey workforce will continue to have positive impacts on safety, quality, cost and schedule.

H&M states its status as a large-scale heavy infrastructure company gives it unique experience and a distinctive viewpoint concerning Energy Strong II as compared to the other parties and participants in this proceeding, and thus, H&M's participation will be constructive. H&M represents that it will also coordinate its representation with similarly situated parties in this matter to the extent that it finds such action appropriate. Moreover, H&M represents it will abide by the schedule set forth for this proceeding and, if granted participant status, will not seek to participate beyond the bounds permitted by N.J.A.C. 1:1-16.6(c). Accordingly, it argues allowing H&M participant status will not cause any undue delay or confusion with regard to these proceedings.

Joseph Jingoli & Son, Inc. ("Jingoli")

Jingoli filed a motion to leave to participate on August 17, 2018. Jingoli states that it has decades of experience as a contractor performing development work and underground facility utility work for the utility industry in New Jersey, including the types of work necessary to implement Energy Strong II. Jingoli claims that it has previously employed a significant number of union workers from various trades to perform such work, and has previously worked for PSE&G and this prior experience gives Jingoli an understanding of the standards necessary to

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<sup>4</sup> H&M's motion was not timely filed, but will nonetheless be considered.



meet the quality, safety and schedule requirements for the installation and replacement of the utility structure under Energy Strong II.

Based on Jingoli's experience in the utility industry, its prior work for PSE&G and the likelihood that it may be retained to perform services in support of Energy Strong II, Jingoli asserts that it not only has an interest in the outcome of this matter, but will be uniquely affected by the outcome of this case in a manner that will assist the Board in reaching a resolution. Jingoli indicates that it will be in a position to provide the Board with valuable insight with regard to the impact Energy Strong II will have on job creation as well as succession implementation of Energy Strong II. Accordingly, Jingoli argues that the issues in this matter substantially and directly affect it, thereby making it appropriate for it to participate. Jingoli states that its participation in this matter will not cause confusion or delay.

#### Waters and Bugbee, Inc. ("W&B")

W&B filed a motion to participate on August 17, 2018. W&B states that it is a corporation specializing in the installation of utility infrastructure and has been involved with major electrical and natural gas distribution with PSE&G for over 50 years. W&B claims that its involvement in Energy Strong will provide the Board with critical insight as to the potential impact that Energy Strong II could have for job creation, accurate assessment of construction costs, and recommendations with efficient implementation. W&B also states that it will support and participate in the construction envisioned by Energy Strong II, as it has successfully been doing under Energy Strong and other modernization initiatives.

W&B represents that its participation in this proceeding will contribute to the development of a complete record by the Board for consideration on these issues. As such, W&B asserts that the issues to be decided in this matter substantially, significantly and directly affect W&B, thereby making it appropriate for it to participate. W&B indicates that its motion is timely it will not delay or otherwise disrupt this proceeding.

#### Environment New Jersey ("ENJ") and New Jersey Conservation Foundation ("NJCF")

On August 17, 2018, ENJ and NJCF filed a motion to participate. ENJ indicates it has more than 20,000 members in the state, the majority of who reside in PSE&G's New Jersey service territory. NJCF states it was founded in 1960 and has since preserved over 125,000 acres of land in New Jersey, for the public's use and enjoyment, and to contribute to the state's ecological well-being. Both ENJ and NJCF state that they are committed to preserving New Jersey's environment by protecting land, air, and water and promoting a clean energy future.

ENJ and NJCF's interest in this matter concerns three subprograms contained within the Program: the grid modernization subprogram, the curtailment resiliency subprogram, and the metering and regulation upgrade subprogram. ENJ and the NJCF assert that they have a significant interest in ensuring Energy Strong II will "conserve and preserve the quality of the environment and prevent the pollution of the waters, land and air of this State," citing N.J.S.A. 48:2-23, which they state is fundamental to the core mission of both organizations. NJCF indicates it has an especially urgent interest in this goal, because the organization owns, manages and stewards over 20,000 acres of open space lands in the state. They also state that they have a significant interest in ensuring that Energy Strong II conforms to the goals and the specific provisions of the clean energy legislation recently signed by Governor Murphy, the Governor's clean energy platform, and the Regional Greenhouse Gas Initiative ("RGGI").

ENJ and the NJCF argue that the Energy Master Plan will be developed by July 2019, a process that could develop policy goals and strategies contrary to the expansion of gas infrastructure proposed in the curtailment resiliency subprogram, and the metering and regulation upgrade subprogram. ENJ and the NJCF further claim they have a strong interest in developing new state goals and policies that will allow the state to reduce the consumption of gas in order to achieve the goals of the Global Warming Response Act. ENJ and the NJCF state that they have a significant interest in ensuring that, if approved, the grid modernization subprogram maximizes the benefits that grid modernization can provide in terms of reliability, energy efficiency and clean energy. They claim the Board's decision will influence future grid modernization proposals in New Jersey. Grid modernization is a key issue in their energy platforms and, therefore, ENJ and the NJCF assert they have a significant interest in the Board's decision.

Since 2004, ENJ represents it has been involved with Board proceedings on energy efficiency standards and renewable energy resource analysis, advocating for increased investments in energy efficiency and an energy efficiency resource standard. ENJ cites to other cases in which it was permitted to intervene, including the proposed merger between Exelon, Inc. and PSE&G and PSE&G's Susquehanna-Roseland electric transmission line project.

ENJ states it has longstanding expertise in energy issues, including advocating for improved air quality and reduced air pollution from fossil fuels and challenging air permits and advocating for reduced emissions from fossil fuel power plants, stronger scrubber technology and the reduced use of fossil fuel generation

NJCF indicates it has an extensive record of supporting additional actions to reduce global warming pollution, both in New Jersey and across the country and has provided expert consultation and analysis of costs related to clean energy provisions of New Jersey's Clean Energy Act. NJCF alleges it has a record of advocating for reduced air pollution from fossil fuels and improved air quality. NJCF adds that it has been substantially involved in examining proposed gas infrastructure projects, as well as devoting significant resources to presenting recommendations for federal energy infrastructure review nationwide, and has brought such expertise to bear on specific gas infrastructure projects impacting New Jersey residents, presenting expert examination of those projects. Such research and advocacy are important to protecting the interests of New Jersey ratepayers. In the present proceeding, NJCF believes that a central question is whether the proposed investments are prudent and its prior and current work on gas infrastructure is directly relevant to these issues.

ENJ and the NJCF argue that they have significant interests in this matter, including the proposal's effect on environmental protection, the proposal's conformance with Governor Murphy's clean energy platform, RGGI, the proposal's potential for benefits in reliability, energy efficiency, clean energy, and the proposal's potential to further the development of gas infrastructure that may be contrary to the state's clean energy goals and unduly harm natural resources and ratepayers.

ENJ and the NJCF assert they should be permitted to participate because they can assist with development of a complete record in areas where they hold unique expertise, experience and policy perspectives. Lastly, ENJ and the NJCF represent their participation would not cause undue delay or confusion, and will work with all parties to ensure an efficient hearing process, and avoid duplicate of efforts, confusion or any delays.

## **Responses**

### PSE&G

By correspondence dated August 30, 2018, PSE&G states it has no objection to the motions to intervene filed by the ELEC, Ferreira, NJLECET and AARP. Likewise, PSE&G has no objection to the motions to participate filed by H&M, CSJV, Jingoli, JCP&L, W&B and IBEW.

With regard to NJLEUC, PSE&G requests that as a condition of its approval of the motion to intervene, the Board require NJLEUC to provide a list of the members it is representing in connection with this proceeding. Further, the Company requests that NJLEUC be required to update this membership list in the event of any material membership changes.

However, the Company opposed the motion to participate filed by ENJ and the NJCF, claiming that their participation would invite injection on significant policy issues regarding renewable energy and energy efficiency into these proceedings that are misplaced, and that will cause confusion or undue delay.

### NJLEUC

In response to PSE&G's August 20, 2018 letter, on September 6, 2018, NJLEUC provided the names of its members located in the Company's territory.

### ENJ and NJCF

On September 6, 2018, ENJ and NJCF filed their response to PSE&G's opposition to their motion to participate, stating that they have demonstrated that they meet the requirements for participation under N.J.A.C. 1:1-16.6. ENJ and NJCF reiterate that they have several significant interests in the outcome of Energy Strong II, including the proposal's effect on environmental protection and the proposal's potential for benefits in reliability, energy efficiency, and clean energy, and that they can assist with development of a complete record in areas where they hold unique expertise, experience, and policy perspectives, thus adding constructively to the case. They add that, as in past proceedings, they will not interfere with the smooth operation of this docket in that they will strictly abide by the schedules and other rulings made by the Board, work with all parties to ensure an efficient hearing process, and avoid duplication of efforts, confusion, or any delays.

## **PREHEARING ORDER**

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

Through this proceeding, PSE&G seeks approval to implement and administer Energy Strong II and its associated cost recovery mechanism. The Company proposes a five-year program with a total investment level of approximately \$2.5 billion. PSE&G claims the Program aims to improve the reliability and resiliency of the Company's electric and gas systems by rebuilding critical electrical equipment, installing stronger poles, deploying advanced technology, building backup pipes, modernizing critical gas equipment, and improving customer service.

### Issues to be Resolved

- A. Is the Program prudent, cost effective and cost efficient?

- B. Is the Program non-revenue producing, accelerated capital spending pursuant to the requirements of N.J.A.C. 14:3-2A.1, et seq.?
- C. Is the Program necessary accelerated capital spend?
- D. What is the appropriate base line spend?
- E. Is the eligible Program spending above the baseline spending level and incremental in nature?
- F. What is the appropriate cost of capital?
- G. Is the proposed cost recovery mechanism reasonable and lawful?

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 public hearings will be held on January 7, 8 and 9, 2018 with sessions at 4:00 p.m. and 5:30 p.m. at each location. Public hearings will be held in Hackensack, Mount Holly and New Brunswick, respectively.

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

Evidentiary hearings will be held on May 21, 22, 23 and 24, 2019 starting at 10:00 a.m. on each day at the Board of Public Utilities, First Floor Multipurpose Room, 44 South Clinton Avenue, Trenton, New Jersey. Dates will be determined based on the availability of the parties and myself.

1. **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 discussions. 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 and 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 – NJLEUC

Fourth - AARP

Fifth – 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 witnesses: Wade E. Miller, Edward F. Gray, Stephen Swetz, William D. Williams, Krystal Richart, Craig Preuss and Andrew Trump. Additional witnesses may be identified by PSE&G as necessary for purposes of rebuttal or sur-rebuttal.

Rate Counsel will present the following witnesses: Andrea Crane, David Dismukes, Kevin O'Donnell, Max Chang and Charles Salamone. Additional witnesses may be identified by Rate Counsel as necessary for purposes of testimony.

NJLEUC and AARP's witnesses are to be determined.

Any party substituting witnesses shall identify such witnesses within five days of determining to replace a witness, and in no event later than five 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:**

NJLEUC has moved to intervene and for the admission pro hac vice of Paul F. Forshay, Esq. AARP has moved to intervene. ELEC, CSJV, Ferreira, NJLECET, IBEW, H&M, Jingoli, W&B, JCP&L, ENJ and NJCF have moved to intervene and/or participate.

14. **SPECIAL MATTERS:**

None at this time.

**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 intervenor'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 In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106 (June 8, 2005).

After consideration of the papers, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), the members of AARP and NJLEUC who represent large and identifiable customer groups of PSE&G will be directly affected by the outcome of this proceeding, I **HEREBY FIND** that AARP and NJLEUC have met the standards for intervention as it is an interest in this proceeding.

Accordingly, having received no objection to AARP, and NJLEUC having met PSE&G's request for a list of members, I **HEREBY GRANT** the motions for intervention of AARP and NJLEUC pursuant to the authority granted to me by the Board under the July 2018 Order.

The arguments advanced by Ferreira in support of its motion focus on its economic interest in construction jobs, which will be potentially created by Energy Strong II. I am persuaded that Ferreira has years of experience in utility construction, including direct expertise in projects similar to those being considered 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 DENY** Ferreira's motion to intervene. However, 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 and NJLECET primarily focus on economic arguments based on an assumption that their membership will be substantially affected by the outcome of this matter because their organization's members may be hired to perform the work proposed by the Energy Strong II. However, while I am persuaded that ELEC and NJLECET have significant experience in large-scale and long-term construction projects similar to the projects proposed for Energy Strong II, I am not persuaded that the primarily pecuniary interests of ELEC and NJLECET will add measurably to this proceeding.

I **HEREBY DENY** the motion to intervene filed by ELEC and NJLECET, but **HEREBY FIND** that the participation by ELEC and NJLECET is likely to contribute additional perspectives to the case without causing undue delay or confusion. Accordingly, to allow ELEC and NJLECET to share their expertise where appropriate, I **HEREBY GRANT** participant status to ELEC 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).

With regard to the motions to participate filed by CSJV, H&M, Jingoli, JCP&L, W&B and IBEW, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of CSJV, H&M, Jingoli, JCP&L, W&B and IBEW 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 CSJV, H&M, Jingoli, JCP&L, W&B and IBEW, 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).

In addition, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), the members of ENJ and NJCF living in PSE&G's service territory will be directly affected by the outcome of the Energy Strong II proceeding, and that ENJ and NJCF have expertise in evaluating the effect on environmental protection and its potential benefits regarding reliability, energy efficiency and clean energy that should contribute to the development of a full and complete record for review by the Board in its evaluation of this matter. Therefore, I **HEREBY FIND** that ENJ and NJCF have met the standards for participation in the Energy Strong II proceeding, as they have interests that are not represented by another party. Accordingly, I **HEREBY GRANT** motion to participate of ENJ and NJCF on the basis of their representation that they will adhere to the scope of the issues to be addressed in this proceeding, and 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.

### Procedural Schedule

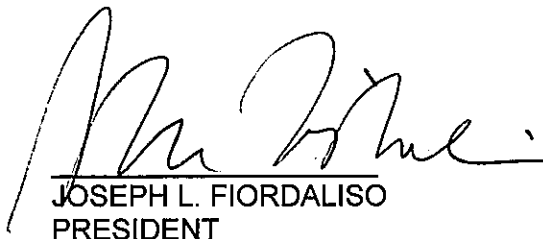
I have reviewed the proposals for a preliminary schedule, after giving due consideration to the positions of Staff, Rate Counsel and the Company, I **HEREBY ISSUE** the aforementioned as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties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

The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: November 30, 2018

  
JOSEPH L. FIORDALISO  
PRESIDENT

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY  
FOR APPROVAL OF THE SECOND ENERGY STRONG PROGRAM (ENERGY STRONG II)  
DOCKET NOS. EO18060629 and GO18060630

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EXHIBIT A

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY  
FOR APPROVAL OF THE SECOND ENERGY STRONG PROGRAM (ENERGY STRONG II)  
DOCKET NOS. EO18060629 and GO18060630

Procedural Schedule<sup>5</sup>

November 9, 2018	Deadline for propounding first round discovery requests on Company
November 23, 2018	Deadline for Company to file first round data responses
December 14, 2018	Deadline for propounding second round discovery requests on Company
December 28, 2018	Deadline for Company to provide all outstanding discovery
January 7, 8, and 9, 2018	Public hearings in Hackensack, Mount Holly and New Brunswick, respectively
Week of January 21, 2019	Technical conference/discovery conference
Week of February 4, 2019	Settlement conferences
February 22, 2019	Deadline for filing Rate Counsel/Intervenor direct testimony
March 8, 2019	Deadline for propounding discovery requests on Rate Counsel/Intervenor direct testimony
March 22, 2019	Deadline for responses to discovery requests on Rate Counsel/Intervenor direct testimony
April 5, 2019	Deadline for filing rebuttal testimony
April 19, 2019	Deadline for propounding discovery requests on rebuttal testimony
May 3, 2019	Deadline for responses to discovery on rebuttal testimony discovery
Week of May 6, 2019	Settlement conferences
May 21-24, 2019	Evidentiary hearings, with live surrebuttal, subject to the President's availability
June 21, 2019	Deadline for filing initial briefs
July 12, 2019	Deadline for filing reply briefs

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<sup>5</sup> Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 1:1-10.4, subject to the scheduled end dates. The aforementioned dates are subject to modification by the presiding Commissioner. The parties on the service list will be notified accordingly.