

RECEIVED
CASE MANAGEMENT

Fwd 2/4/19
JAN 30 2019

Mailing Address:
P.O. Box 5404
Princeton, NJ 08543

File No.: 300135-70

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Christopher E. Torkelson, Esq.
609 989 5059
ctorkelson@eckertseamans.com

January 29, 2019

Via FedEx and Email

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

RECEIVED
MAIL ROOM

JAN 30 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

**RE: In the Matter of 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. GO18101112 & EO18101113**

Dear Secretary Camacho-Welch:

Enclosed are an original and ten (10) copies of a Motion for Interlocutory Review of Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), and NJR Retail Services Company ("NJR") (collectively, "Direct Energy"), NRG Energy, Inc. ("NRG"), Just Energy Group Inc. ("Just Energy") and Centrica Business Solutions (collectively, the "Market Participants") in the above proceeding. By copy of this letter, copies of this Motion for Interlocutory Review are being forwarded on this date via email to all persons whose names appear on the attached Service List.

I understand that due to the Governor's declaration of a state of emergency, your offices are closed this afternoon. Accordingly, this Motion is being sent to you by overnight delivery and email, rather than by hand delivery. Please accept this Motion as timely filed, in view of today's State-ordered closure.

I also have enclosed an extra copy of this Motion for Interlocutory Review to be stamped "filed" and returned to this office in the enclosed self-addressed envelope.

CMS

Energy

Legal

DAG

S. Richardson, Legal

R. Boylan, Legal

{R0499109.1}

Thank you for your courtesies.

Respectfully submitted,



Christopher E. Torkelson

CET/ldr
Enclosures

cc: Stefanie A. Brand, Esq. (w/enc., via email and FedEx)
Matthew M. Weissman, Esq. (w/enc., via email and FedEx)
All Persons on Attached Service List (w/enc., via email only)

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ENERGY EFFICIENCY
("CEF-EE") PROGRAM ON A REGULATED BASIS

BPU DOCKET NOS. GO18101112 & EO10121113

SERVICE LIST

PSEG

PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, NJ 07102
(973) 430-5811

Joseph Accardo, Jr.
joseph.accardojr@pseg.com

Michele Falcao
michele.falcao@pseg.com

Justin Incardone, Esq.
justin.incardone@pseg.com

Danielle Lopez, Esq.
danielle.lopez@pseg.com

Joseph A. Shea, Esq.
joseph.shea@pseg.com

Bernard Smalls
bernard.smalls@pseg.com

Matthew M. Weissman, Esq.
matthew.weissman@pseg.com

Caitlyn White
caitlyn.white@pseg.com

BPU

Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350

Aida Camacho-Welch
Secretary of the Board
Aida.camacho@bpu.nj.gov

Paul Flanagan, Esq.
Executive Director
paul.flanagan@bpu.nj.gov

Noreen M. Giblin, Esq.
Chief Counsel
noreen.giblin@bpu.nj.gov

Kenneth Sheehan, Director
Division of Clean Energy
ken.sheehan@bpu.nj.gov

Sherri Jones, Assistant Director
Division of Clean Energy
sherri.jones@bpu.nj.gov

Scott Hunter
Division of Clean Energy
benjamin.hunter@bpu.nj.gov

Mona Mosser
Division of Clean Energy
mona.mosser@bpu.nj.gov

Mahogany A. Hall
Division of Clean Energy
mahogany.hall@bpu.nj.gov

Benjamin Goldstein
Division of Clean Energy
benjamin.goldstein@bpu.nj.gov

Stacy Peterson, Director
Division of Energy
stacy.peterson@bpu.nj.gov

Andrea Reid
Division of Energy
andrea.reid@bpu.nj.gov

Bart Kilar
Division of Energy
bart.kilar@bpu.nj.gov

Bethany Romaine, Esq.,
Deputy Chief Counsel
bethany.romaine@bpu.nj.gov

Rachel Boylan, Esq.
Counsel's Office
rachel.boyland@bpu.nj.gov

Stacy Ho Richardson, Esq.
Counsel's Office
stacy.richardson@bpu.nj.gov

Rate Counsel

Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Director
sbrand@rpa.nj.gov

Brian Lipman, Litigation Manager
blipman@rpa.nj.gov

Felicia Thomas-Friel, Esq.
fthomas@rpa.nj.gov

Kurt Lewandowski, Esq.
klewando@rpa.nj.gov

Sarah Steindel, Esq.
ssteindel@rpa.nj.gov

Maura Caroselli
mcaroselli@rpa.nj.gov

Shelley Massey
smassey@rpa.nj.gov

Lisa Gurkas
lgurkas@rpa.nj.gov

DAG

Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Caroline Vachier, DAG, Section Chief
Caroline.vachier@law.njoag.gov

Geoffrey Gersten, DAG
Geoffrey.gersten@law.njoag.gov

Andrew Kuntz, DAG
Andrew.kuntz@law.njoag.gov

Alex Moreau, DAG
Alex.moreau@law.njoag.gov

Timothy Oberleiton
Timothy.Oberleiton@law.njoag.gov

Emma Xiao
Emma.xiao@law.njoag.gov

Jenique Jones
jenique.jones@law.njoag.gov

JAN 30 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

JAN 30 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

In the Matter of the Petition of	:	BPU Docket Nos. GO18101112 &
Public Service Electric and Gas Company	:	EO18101113
For Approval of its Clean Energy	:	
Future-Energy Efficiency ("CEF-EE") Program	:	
On a Regulated Basis	:	

**MOTION FOR INTERLOCUTORY REVIEW
OF DIRECT ENERGY BUSINESS, LLC,
DIRECT ENERGY BUSINESS MARKETING, LLC,
DIRECT ENERGY SERVICES, LLC, GATEWAY ENERGY SERVICES
CORPORATION, NJR RETAIL SERVICES COMPANY, NRG ENERGY, INC., JUST
ENERGY GROUP INC. AND CENTRICA BUSINESS SOLUTIONS**

I. INTRODUCTION

Pursuant to *N.J.A.C. 1:1-14.10*, Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), and NJR Retail Services Company ("NJR") (collectively, "Direct Energy"), NRG Energy, Inc. ("NRG"), Just Energy Group Inc. ("Just Energy") and Centrica Business Solutions (collectively, the "Market Participants") file this Motion for Interlocutory Review of the Order of Presiding Commissioner Dianne Solomon ("Commissioner Solomon") issued on January 22, 2019 ("January 22 Order") in the above-captioned proceeding. The January 22 Order, among other things, denied the Motion to Intervene of the Market Participants and, instead, granted them participant status. Through this Motion for Interlocutory Review, the Market Participants request that the January 22 Order be modified to grant them full party status as intervenors in this proceeding. Given the

180-day statutory timeframe¹ for this case, the Market Participants request that the Board rule on this Motion for Interlocutory Review on an expedited basis.

While expressly acknowledging the significant interests and unique perspectives of the Market Participants, the January 22 Order summarily concluded that the Market Participants have failed to demonstrate that their interest warrants granting their Motion to Intervene. In so holding, the January 22 Order essentially set an arbitrary limit, without any valid basis and in contravention of the applicable regulations, on the number of interested parties who are permitted to intervene in this proceeding.

Notably, the January 22 Order is inconsistent with the Board's recent action in granting Direct Energy intervenor status in PSE&G's 2017 energy efficiency proceeding. *In the Matter of the Petition of Public Service Electric & Gas for Approval of its 2017 Energy Efficiency Program and Recovery of Associated Costs*, Docket No. EO 17030196 (Prehearing Order dated May 18, 2018). Indeed, in the 2017 proceeding, Direct Energy served discovery, submitted testimony, actively participated in settlement discussions and ultimately filed a letter of non-opposition on August 3, 2017 to the Stipulation of Settlement filed by PSE&G, Board Staff and the Division of Rate Counsel. Direct Energy's intervention in that case was based on the same issues that have been raised by the Market Participants here. As no distinction exists between the 2017 proceeding and this matter, including the timeframe for making a decision, no factors warrant different treatment now.

Moreover, the grounds for denying the Market Participants' Motion to Intervene are not valid. The basis for the denial is the compressed timeframe under the statute for deciding this proceeding. However, the Board's statutory obligation to act within 180 days of the filing is not

1 See N.J.S.A. 48:3-98.1(b).

a lawful reason for placing a limitation on the number of parties who may intervene or for denying intervention by a party that has met all of the requisite standards. To the contrary, the Board is obligated to grant intervenor status to entities who meet the requirements set forth in the regulations while also managing the docket to fulfill its duties under the statute for the issuance of a timely adjudication. Nonetheless, to address the Board's concern, if granted intervenor status, the Market Participants will collaborate and coordinate with parties who may have similar interests in an effort to avoid duplicative testimony and discovery in this proceeding.

As active participants in the competitive energy efficiency market in New Jersey, the Market Participants have demonstrated that their interests will be substantially and directed affected by the outcome of this proceeding. The Market Participants have further shown that their interests are substantially different so as to add measurably and constructively to the scope of the case, as they are comprised of companies with unique business models, product and service offerings, and experiences. If permitted intervention, the Market Participants will comply with the procedural schedule established in this case, and their intervention will not delay or otherwise disrupt the adjudication of this proceeding. Indeed, the January 22 Order acknowledges that all of these standards have been met.

It is imperative that the Board of Public Utilities ("Board" or "BPU") modify the January 22 Order, grant the Market Participants' Motion to Intervene, and allow them full party-status as intervenors. A significant difference exists between the ability to engage in meaningful litigation of a proceeding under participant versus intervenor status. Per the January 22 Order, participants are merely allowed to argue orally and file briefs, whereas party status would allow the Market Participants to also engage in discovery, as well as submit testimony and file exceptions. Being limited in this manner would unnecessarily and inappropriately prevent the Market Participants

from fully litigating the issues in which they have a direct and substantial interest, as acknowledged by the January 22 Order. As entities with direct and substantial interests that are substantially different so as to add measurably and constructively to the scope of the case, and who would not delay the adjudication of the proceeding, the Market Participants are entitled, under fundamental principles of due process, to have their concerns about PSE&G's filing heard and considered by the Board. Absent a modification of the January 22 Order, the Board will have violated the Market Participants' due process rights by denying them a meaningful opportunity to be heard.

The importance of competition and of gaining the perspective from PSE&G's competitors cannot be over-emphasized. The January 22 Order expressly acknowledged the importance the Legislature placed on competition in the conservation and energy efficiency industries for maximizing efficiencies. January 22 Order at 1; *see also N.J.S.A. 26:2C-45*. Allowing the January 22 Order to remain intact will deny the Board the opportunity to consider these issues from the perspective of active participants in the energy efficiency market who are seeking to remove barriers and fully compete with PSE&G on a level playing field in New Jersey's retail energy market. This scenario is not in the best interest of the public, PSE&G's ratepayers, or the New Jersey conservation and energy efficiency industries. As such, it is essential that the Market Participants be granted full party status as intervenors in this proceeding.

II. BACKGROUND

1. On September 26, 2018, PSE&G initially filed this matter with the Board along with its Clean Energy Future – Electric Vehicle and Energy Storage (“CEF-EVES”)² and Clean

2 Docket No. EO18101111.

Energy Future – Energy Cloud (“CEF-EC”)³ Programs. At the request of the Board, PSE&G filed these three Clean Energy Future Programs separately, with their own petitions and docket numbers. On October 11, 2018, PSE&G filed its Petition with the Board pursuant to *N.J.S.A.* 48:2-21 and *N.J.S.A.* 48:2-21.1, *N.J.S.A.* 48:3-98.1, seeking approval for a Clean Energy Future – Energy Efficiency Program.

2. On October 15, 2018, PSE&G filed its Petition for Approval of its Clean Energy Future-Energy Efficiency Program on a Regulated Basis with the New Jersey Board of Public Utilities (“the Board”). The CEF-EE Program consists of 22 subprograms, including seven residential subprograms, seven commercial and industrial (“C&I”) subprograms, and eight pilot subprograms. The total proposed investment for the CEF-EE Program is approximately \$2.5 billion, with a \$283 million expense budget over the proposed 6-year term of the program. PSE&G proposes to recover and track costs via a new CEF-EE Program component (“CEF-EEC”) of the Company's electric and gas Green Programs Recovery Charge (“GPRC”), which would be filed annually after the proposed initial period. In addition, the Company proposes a mechanism for recovering lost revenues.

3. Along with its Petition, PSE&G filed the following Direct Testimonies in support thereof: Karen Reif (“Attachment 1”); Stephen Swetz (“Attachment 2”); and Daniel Hansen (“Attachment 3”).

4. The Direct Testimony of Karen Reif describes the 22 CEF-EE subprograms as follows:

3 Docket No. EO18101115.

- Residential Efficient Products: PSE&G proposes to provide rebates and on-bill repayment for HVAC, smart thermostats, appliances, lighting, and other equipment.
- Residential Existing Homes: PSE&G proposes to provide Rebates and on-bill repayment for energy audit, direct install of efficient equipment, and broader weatherization / appliance replacement services
- Residential Behavioral: PSE&G proposes to provide data analytics, home energy reports, and online energy audits.
- Residential K-12 Education: PSE&G proposes to provide curriculum to teach energy efficiency and a take-home kit with efficient products.
- Residential New Construction: PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.
- Residential Multi-Family: PSE&G proposes to provide energy audit and direct install of efficient equipment at no charge to tenants.
- Residential Income Eligible: PSE&G proposes to provide energy audit, direct install of efficient equipment, and broader weatherization/appliance replacement services at no charge.
- C&I Perspective: PSE&G proposes to provide rebates and on-bill repayment for HVAC, lighting, motors & drives, refrigeration, water heaters, air compressors, and food service equipment.
- C&I Custom: PSE&G proposes to provide custom incentives for large energy efficiency projects, including on-bill repayment.

- C&I Small Non-Residential Efficiency: PSEG proposes to provide rebates and on-bill repayment for direct-installed EE measures to small non-residential customers of lighting, controls, refrigeration, heating and air conditioning upgrades, etc.
- C&I New Construction: PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.
- C&I Energy Management: PSE&G proposes to provide retro-commissioning and strategic energy management: optimizing existing systems with little to no equipment upgrades.
- C&I Engineered Solutions: PSE&G proposes to provide whole-building engineered energy saving solutions to hospitals, school districts, universities, municipalities, apartment buildings and other non-profit public entities.
- C&I Streetlight: PSE&G proposes to provide replacement of HPS and LED luminaires and smart cities pilot.
- Emerging Technologies & Approaches: PSE&G proposes to provide funding and support to identify, demonstrate, and deploy the next generation of energy efficiency technologies.
- Energy Efficiency as a Service Pilot: PSE&G proposes to provide monthly service contracts, incentives, and extensive guidance on energy efficient building equipment and software.
- Smart Homes Pilot: PSE&G proposes to provide automated and personalized savings measures using an ecosystem of energy efficient devices and technologies working in coordination.

- Non-Wires Alternative Pilot: PSE&G proposes to defer or replace the need for electric infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- Non-Pipes Solution Pilot: PSE&G proposes to defer or replace the need for gas infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- Volt Var Pilot: PSE&G proposes to use smart-grid technology to automate control of the electric power distribution grid to reduce energy consumption, peak demand, system losses and enable more solar.
- Business Energy Reports Pilot: PSE&G proposes to use data analytics, home energy reports and online energy audits for businesses.
- Building Operator Certification Pilot: PSE&G proposes to provide a training program for building operations staff responsible for energy-using equipment.

Attachment 1 at 6-9.

5. The Direct Testimony of Stephen Swetz describes the revenue requirement methodologies, cost recovery mechanisms, and provides a bill impact analysis for the CEF-EE Program.

6. The Direct Testimony of Daniel Hansen focuses on PSE&G's Green Enabling Mechanism ("GEM") proposal, which Mr. Hansen said is intended to remove the disincentive to promote conservation and energy efficiency that PSE&G faces because of its retail distribution rate designs. Attachment 3 at 1-2.

7. By Order adopted on October 29, 2018, the Board determined that the Petition should be retained by the Board for hearing and designated Commissioner Dianne Solomon as

the presiding officer. The Board further established November 16, 2018 as the date by which entities seeking to intervene or participate must file the appropriate application. The Order went into effect November 8, 2018.

8. On November 14, 2018, Staff issued a letter of administrative deficiency to PSE&G's CEF-EE filing.

9. On November 16, 2018, pursuant to *N.J.A.C.* 1:1-16.1 and 16.2, Direct Energy and Centrica Business Solutions filed a Motion to Intervene ("Motion to Intervene") in the CEF-EE proceeding. A full and complete copy of the Motion to Intervene is attached hereto as Exhibit A.

10. Direct Energy is one of the largest competitive retail providers of electricity, natural gas and home services in North America, with over 4 million customer relationships, multiple brands and roughly 5,000 employees. As third-party energy suppliers in New Jersey, all five intervening Direct Energy companies hold electric power and/or gas supplier licenses, as follows: Direct Business – ESL-0165 (electric power) and GSL-0145 (gas supplier); Direct Marketing – ESL-0142 (electric power) and GSL-0128 (gas supplier); Direct Services – ESL-0078 (electric power) and GSL-0088 (gas supplier); Gateway – ESL-0166 (electric power) and GSL-0146 (gas supplier); and NJR – GSL-0173 (gas supplier). Direct Energy is licensed to sell natural gas and electricity to customers in PSE&G's service territory. Direct Energy and its affiliated Connected Home division offer Hive products in the direct to consumer market, as well as through partners such as retail energy providers.

11. Centrica Business Solutions, a subsidiary of Centrica plc and affiliate of Direct Energy, integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management capabilities. Offering innovative

distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

12. On November 28, 2018, PSE&G filed a letter objecting to Direct Energy's Motion to Intervene.

13. On December 3, 2018, Direct Energy and Centrica Business Solutions filed a letter responding to the Company's objection.

14. On December 6, 2018, the Market Participants filed a Supplemental Motion to Intervene ("Supplemental Motion") to include NRG and Just Energy. Other than providing information relative to the addition of NRG and Just Energy, the Supplemental Motion did not make any substantive changes to the original Motion to Intervene. Neither the number of parties nor the issues to be addressed were modified as a result of the Supplemental Motion. A full and complete copy of the Supplemental Motion is attached hereto as Exhibit B.

15. NRG is a leading integrated power company in the U.S. A Fortune 500 company, NRG operates a reliable and efficient electric generation, a demand-side business focusing on demand response and other customer-sited energy efficiency and distributed energy investments, and a retail platform serving residential and commercial businesses. Its retail electricity providers serve almost three million customers across more than a dozen states. One million of those customers are in the Northeast markets, which include customers in New Jersey. Its demand-side businesses work with consumers on an "all-of-the-above" approach to controlling their energy costs and content. NRG's retail companies have more than 25 years combined experience with retail energy competition and customer service. NRG is headquartered in Princeton, New Jersey. The company has several licensed third party suppliers that are actively serving residential, commercial, industrial and institutional customers across

New Jersey.⁴ These NRG retail companies offer customers a range of products including 100% renewable, cash back and travel rewards.

16. Just Energy Group Inc. is the parent company of licensed third party suppliers serving retail customers in New Jersey.⁵ Specializing in electricity, natural gas and green energy, the Just Energy corporate family serves close to two million residential and commercial customers throughout North America, the United Kingdom, Ireland and Germany, including electric and natural gas supply customers in New Jersey. Just Energy's affiliates generally offer a wide range of energy products and home energy management services such as long-term fixed-price, flat bill programs, smart thermostats and home water filtration. Just Energy and its affiliates serve residential and commercial customers throughout New Jersey.

17. On December 17, 2018, PSE&G filed a letter in opposition to the Supplemental Motion.

18. On December 19, 2018, the Market Participants filed a letter responding to the Company's objection.

19. On January 7, 2019, PSE&G made a Supplemental Filing. On January 9, 2019, Staff issued a letter indicating that PSE&G's Supplemental Filing satisfied the minimum filing requirements.

20. On January 22, 2019, Commissioner Solomon issued a Prehearing Order, where she, among other things, denied the Motion to Intervene of the Market Participants and, instead,

4 As third-party energy suppliers in New Jersey, NRG holds electric power and/or gas supplier licenses, as follows: Energy Plus Holdings LLC – ESL-0087, Independence Energy Group LLC – ESL-0100, Energy Plus Natural Gas LLC – GSL-0100, Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business – ESL-0093 and GSL-0176, Green Mountain Energy Company – ESL-0098, and XOOM Energy New Jersey, LLC – ESL-0115 and GSL-0112.

5 Just Energy holds third-party supplier licenses in New Jersey as follows: Hudson Energy Services, LLC – ESL-0083 and GSL-0069 and Just Energy Solutions, Inc. – ESL-0046 and GSL-0116.

granted them participant status. January 22 Order at 15. The January 22 Order also established that the 180-day statutory timeframe for Board review⁶ began on January 7, 2019. *Id.* at 3.

21. The Market Participants file this Motion for Interlocutory Review, seeking to modify the January 22 Order insofar as it relates to the denial of the Market Participants' Motion to Intervene and Supplemental Motion. For the reasons identified below, the Market Participants submit that the January 22 Order erred in arbitrarily setting a limit on the number of interested parties that could intervene in the proceeding. A failure to reverse the January 22 Order will also deprive the Market Participants of due process by denying them an opportunity to be heard on valid issues in which they have a direct and substantial interest.

6 See *N.J.S.A.* 48:3-98.1(b).

III. ARGUMENT

A. The Market Participants meet the standard for full party intervention, and the January 22 Order erred in limiting the number of interested parties from participating in the proceeding.

22. On January 22, 2019, the BPU denied the Market Participants' motion for intervention with full party status in this proceeding, despite finding that the Market Participants met the standards applicable to intervention. The Board's Order erroneously set an arbitrary limit on the number of interested parties who were permitted to intervene without any valid basis and in contravention of the applicable regulations. The Board made findings that supported the Market Participants' intervention as a party, but committed legal error when it limited the number of interested parties from participating in the proceeding.

23. *N.J.A.C. 1:1-16.1* provides that "[a]ny 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)*. In ruling on a Motion to Intervene, the BPU is instructed to evaluate: (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*.

24. The Market Participants, as the Board functionally acknowledges in its January 22 Order, have satisfied each of the factors required for intervention set forth in *N.J.A.C. 1:1-16.3*. The Market Participants established through their Motion to Intervene and Supplemental Motion that they are substantially, specifically and directly affected by this proceeding because, among other things, if the BPU approves the sub-programs proposed by PSE&G, along with the cost

recovery which is sought from ratepayers, PSE&G would be utilizing its monopoly status as a regulated public utility to directly compete with services that are available through the private market, which would adversely affect the Market Participants. The January 22 Order appropriately found, “that the active participation of these businesses in offering energy efficiency products and services in the competitive market gives them a significant interest in the outcome of this proceeding.” January 22 Order at 15. As such, it is clear that the Market Participants have a direct and substantial interest in this proceeding and that their business operations may be adversely impacted by the outcome of this case.

25. Regarding the second criteria, the Market Participants demonstrated that their interests, as companies in the energy market with unique business models, products and service offerings and experiences, are sufficiently different from that of any party so as to add measurably and constructively to the scope of the case. The January 22 Order acknowledged such. January 22 Order at 15 (“I also acknowledge that [the Market Participants] seek to offer the perspectives of companies with specific business models, product and service offerings, and experiences.”).

26. Third, the Market Participants filed a timely Motion to Intervene, in which they indicated that their Intervention would not delay or otherwise disrupt the adjudication of the proceeding. Even though NRG and Just Energy were added to Direct Energy’s original Motion to Intervene after the date for filing interventions, the Market Participants note that PSE&G’s filing was not found to be administratively complete until after a month following the filing of the Supplemental Motion to Intervene. In any case, through their intervention, the Market Participants do not seek to modify or otherwise delay the procedural schedule. Indeed, the January 22 Order appropriately found that the Market Participants “have a significant interest in

this proceeding and are likely to add constructively to the case as participants without causing undue delay or confusion.” *Id.* (Emphasis added). If permitted intervention, the Market participants will comply with the procedural schedule established in this case. *See In the Matter of the Verified Petition of Jersey Central Power & Light Company and Mid-Atlantic Interstate Transmission, LLC, et al.*, Docket No. EM15060733, et al. (Order dated August 15, 2016) (late intervention granted based on representation that party would take the record “as is” and the party’s expertise would contribute to the development of a full and complete record).

27. Thus, the Board fundamentally found that the Market Participants met the traditional standard for intervention, yet still denied the Market Participants’ Motion on the basis that the *other parties* are concerned with a similar issue, and that admitting all parties could delay or disrupt the proceeding. Neither the law nor the Board’s regulations support such a limit to the intervention of interested parties. Surely, there may be multiple parties in a proceeding of this sort that are concerned with how PSE&G’s proposal will impact competition in the conservation and energy efficiency industries. No other party, however, is able to offer the unique perspectives that can be provided by the Market Participants, as active participants in New Jersey’s energy efficiency market, with unique business models, products and service offerings, and experiences. Merely because the Board would have to manage the proceeding with an additional intervenor is not a valid basis upon which to deny the Market Participants’ intervention. Rather, the Board is obligated to allow parties to intervene who have met the standards set forth in the regulations, which the Market Participants have done. However, to assist the Board in managing this proceeding, the Market Participants are willing to collaborate and coordinate with any parties whose interests may be similar to avoid duplicative testimony and discovery in this proceeding.

28. Additionally, the January 22 Order is inconsistent with the Board's recent action in granting Direct Energy intervenor status in PSE&G's 2017 energy efficiency proceeding. *In the Matter of the Petition of Public Service Electric & Gas for Approval of its 2017 Energy Efficiency Program and Recovery of Associated Costs*, Docket No. EO 17030196 (Prehearing Order dated May 18, 2018). Having been granted full-party status, Direct Energy served discovery, submitted testimony, actively participated in settlement discussions and ultimately filed a letter of non-opposition on August 3, 2017 to the Stipulation of Settlement filed by PSE&G, Board Staff and the Division of Rate Counsel. Direct Energy's intervention in that case was based on the same issues that have been raised by the Market Participants here, and Direct Energy's participation did not confuse or otherwise delay the proceeding. As no distinction exists between the 2017 proceeding and this matter, including the timeframe for making a decision, no factors warrant different treatment now.

29. The importance of competition and of gaining the perspective from PSE&G's competitors cannot be over-emphasized. The January 22 Order expressly acknowledged the importance the Legislature placed on competition in the conservation and energy efficiency industries for maximizing efficiencies. January 22 Order at 1; *see also* N.J.S.A. 26:2C-45. Additionally, in *Independent Energy Producers of New Jersey v. New Jersey Department of Environmental Protection and Energy*, 275 N.J. Super. 46 (N.J. Super. 1994) ("IEPNJ v. NJDEPE"), the Court emphasized the need to permit intervention to PSE&G's competitors even where such competitors had only "a speculative possibility of a business advantage in the outcome of this litigation." *IEPNJ v. NJDEPE*, 275 N.J. at 56. The Court held that such competitors are often the only parties sufficiently invested in the issue to protect the public interest. The Court concluded that without such competitor involvement, "an administrative

determination favorable to the permittee, whether right or wrong, proper or arbitrary, takes on a conclusive character 'to the possible great detriment of the people as a whole.'" *Id.* (quoting *Elizabeth Fed. S. & L. Ass'n v. Howell*, 24 N.J. 488, 501 (1957)). Thus, the Court granted standing, even though the competitor's interest in the Department's determination might have been considered speculative. *Id.* at 56-57.

30. For the reasons expressed above, the Market Participants meet the standard for full party intervention, and the January 22 Order erred in limiting the number of interested parties from participating in the proceeding.

B. Due Process Principles Entitle the Market Participants to an Opportunity to Be Heard.

31. Fundamental principles of due process entitle the Market Participants to an opportunity to be heard on the issues identified in their Motion for Intervention and Supplemental Motion, particularly since each and every issue has the potential to adversely affect the Market Participants' businesses, the competitive conservation and energy efficiency industries, as well as the rates charged by PSE&G and the services provided to its customers.

32. The Fourteenth Amendment of the United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law." The New Jersey Constitution protects similar interests. N.J. Const., Art. I, Para. 1; *see also Greenberg v. Kimmelman*, 99 N.J. 552, 494 A.2d 294 (1985). Due process calls for such procedural protections as fairness demands, the essential components of which are notice and an opportunity to be heard. *Mettinger v. Globe Slicing Mach. Co.*, 153 N.J. 371, 709 A.2d 779 (1998).

33. Moreover, New Jersey recognizes a doctrine of fundamental fairness that provides protections beyond those guaranteed by the United States and New Jersey Constitutions. *See*

State v. P.Z., 152 N.J. 86, 703 A.2d 901 (1997); *see also John Doe v. Poritz*, 142 N.J. 1, 662 A.2d 367 (1995). New Jersey Courts have recognized the applicability of this doctrine to parties participating in administrative proceedings before the Board of Public Utilities. *See e.g. In re Public Service Elec. and Gas Company's Rate Unbundling, Stranded Costs and Restructuring Filings*, 330 N.J. Super. 65, 748 A.2d 1161 (N.J. Super. 2000) ("*PSEG Rate Unbundling Case*"). Specifically, in the *PSEG Rate Unbundling Case*, the New Jersey Superior Court held:

Where constitutional protections do not adequately safeguard an important interest, principles of fundamental fairness come into play. New Jersey's doctrine of fundamental fairness protects against "unjust and arbitrary governmental actions, and specifically against governmental *procedures* that tend to operate arbitrarily.

Id. (Emphasis in original, internal citations omitted). While the New Jersey Superior Court noted that courts allow administrative agencies "the fullest exercise of administrative discretion," the Court specifically added "[u]nless there is a fundamental deficiency in procedure." *Id.*⁷

34. As discussed above and in their Motion to Intervene and Supplemental Motion, the Market Participants have a direct and substantial interest in the issues they seek to raise in this proceeding. It would be the epitome of "a fundamental deficiency in procedure" if the Market Participants are unable to provide testimony on these issues and be permitted the right to file Exceptions. As it stands, the Market Participants are already being deprived of due process due to the inability to serve discovery, the time period for which may very well run before the Board can act to modify the January 22 Order.

35. Moreover, the effect of the January 22 Order is to completely prevent the Market Participants from pursuing the issues they have identified from the outset of their intervention in

⁷ The New Jersey Superior Court found there was no violation of due process or fundamental fairness in the *PSEG Rate Unbundling Case*, because there was a hearing on certain issues and an opportunity to present comments on other issues. As such, the New Jersey Superior Court concluded that because the parties had notice and an opportunity to be heard, they received the essential requirements of due process. The same can certainly not be said for the Market Participants in this case.

this proceeding. A failure to allow the Market Participants to file testimony and afford them the right to file Exceptions effectively quashes their ability to meaningfully participate in this proceeding. Clearly, due process necessitates a reversal of the January 22 Order.

IV. CONCLUSION

For the reasons explained above, the Market Participants respectfully requests that the Board of Public Utilities modify the January 22 Order to grant them full party status as intervenors in this proceeding. Given the 180-day statutory timeframe⁸ for this case, the Market Participants request that the Board grant their Motion to Intervene on an expedited basis.

Respectfully Submitted,



Christopher Torkelson, Esq.
NJ Attorney ID No. 022961996
Eckert Seamans Cherin & Mellott, LLC
P.O. Box 5404
Princeton, NJ 08543
609-989-5059
ctorkelson@eckertseamans.com

Karen O. Moury, Esq.
PA Attorney ID No. 36879
Kristine Marsilio, Esq.
PA Attorney ID No. 316479
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000
kmoury@eckertseamans.com
kmarsilio@eckertseamans.com

Attorneys for Direct Energy Business, LLC, Direct
Energy Business Marketing, LLC and Direct
Energy Services, LLC, Gateway Energy Services
Corporation, and NJR Retail Services Company

Dated: January 29, 2019

8 See N.J.S.A. 48:3-98.1(b).

EXHIBIT A

**ECKERT
SEAMANS**
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
Princeton Pike Corporate Center
2000 Lenox Drive, Suite 203
Lawrenceville, NJ 08648

TEL 609 392 2100
FAX 609 392 7956
www.eckertseamans.com

Mailing Address:
P.O. Box 5404
Princeton, NJ 08543

File No.: 300135-70

Christopher E. Torkelson, Esq.
609 989 5059
ctorkelson@eckertseamans.com

November 16, 2018

Via Hand Delivery

Aida Camacho-Welch, Esq.
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave., 3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 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 No.: GO18101112 & EO10121113**

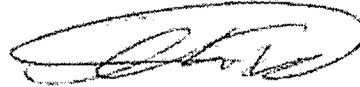
Dear Secretary Camacho-Welch:

Enclosed are an original and ten (10) copies of the Motion of Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), and Gateway Energy Services Corporation ("Gateway"), (collectively, "Direct Energy") and Centrica Business Solutions to Intervene in the above proceeding, together with an original and ten (10) copies of a Motion for Admission *Pro Hac Vice* of Karen O. Moury, Esq. and Kristine E. Marsilio, Esq. By copy of this letter, copies of both motions are being forwarded on this date via email to all persons whose names appear on the attached Service List.

I have also enclosed an extra copy of each of these motions to be stamped and returned to this office by the courier.

Thank you for your courtesies.

Respectfully submitted,



Christopher E. Torkelson

CET/ldr
Enclosures

cc: Stephanie A. Brand, Esq. (w/encs., via email and FedEx)
Matthew M. Weissman, Esq. (w/encs., via email and Fedex)
All Persons on Attached Service List (w/encs., via email only)

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ENERGY EFFICIENCY
("CEF-EE") PROGRAM ON A REGULATED BASIS
BPU DOCKET NOS. GO18101112 & EO10121113

SERVICE LIST

PSE&G

PSEG Services Corporation
80 Park Plaza, T5G
P.O. Box 570
Newark, NJ 07102
(973) 430-5811

Joseph Accardo, Jr.
joseph.accardojr@pseg.com

Michele Falcao
michele.falcao@pseg.com

Justin Incardone, Esq.
justin.incardone@pseg.com

Danielle Lopez, Esq.
danielle.lopez@pseg.com

Joseph A. Shea, Esq.
joseph.shea@pseg.com

Bernard Smalls
bernard.smalls@pseg.com

Matthew M. Weissman, Esq.
matthew.weissman@pseg.com

Caitlyn White
caitlyn.white@pseg.com

Division of Rate Counsel

140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Director
sbrand@rpa.nj.gov

Brian Lipman, Litigation Manager
blipman@rpa.nj.gov

Board of Public Utilities

44 South Clinton Avenue, 3rd Floor
Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350

Aida Camacho-Welch
Secretary of the Board
Board.secretary@bpu.nj.gov

Paul Flanagan, Esq.
Executive Director
paul.flanagan@bpu.nj.gov

Noreen M. Giblin, Esq.
Chief Counsel
noreen.giblin@bpu.nj.gov

Kenneth Sheehan, Director
Division of Clean Energy
ken.sheehan@bpu.nj.gov

Sherri Jones, Assistant Director
Division of Clean Energy
sherri.jones@bpu.nj.gov

Scott Hunter
Division of Clean Energy
benjamin.hunter@bpu.nj.gov

Mona Mosser
Division of Clean Energy
mona.mosser@bpu.nj.gov

Mahogany A. Hall
Division of Clean Energy
mahogany.hall@bpu.nj.gov

Benjamin Goldstein
Division of Clean Energy
benjamin.goldstein@bpu.nj.gov

Felicia Thomas-Friel, Esq.
fthomas@rpa.nj.gov

Kurt Lewandowski, Esq.
klewando@rpa.nj.gov

Sarah Steindel, Esq.
ssteindel@rpa.nj.gov

Maura Caroselli
mcaroselli@rpa.nj.gov

Shelley Massey
smassey@rpa.nj.gov

Lisa Gurkas
lgurkas@rpa.nj.gov

Division of Law

Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Caroline Vachier, DAG, Section Chief
Caroline.vachier@law.njoag.gov

Geoffrey Gersten, DAG
Geoffrey.gersten@law.njoag.gov

Andrew Kuntz, DAG
Andrew.kuntz@law.njoag.gov

Alex Moreau, DAG
Alex.moreau@law.njoag.gov

Timothy Oberleiton
Timothy.Oberleiton@law.njoag.gov

Emma Xiao
Emma.xiao@law.njoag.gov

Jenique Jones
jenique.jones@dol.lps.state.nj.us

Stacy Peterson, Director
Division of Energy
stacy.peterson@bpu.nj.gov

Andrea Reid
Division of Energy
andrea.reid@bpu.nj.gov

Bart Kilar
Division of Energy
bart.kilar@bpu.nj.gov

Bethany Romaine, Esq.,
Deputy Chief Counsel
bethany.romaine@bpu.nj.gov

Rachel Boylan, Esq.
Counsel's Office
rachel.boyland@bpu.nj.gov

Stacy Ho Richardson, Esq.
Counsel's Office
stacy.richardson@bpu.nj.gov

**STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW**

IN THE MATTER OF THE PETITION OF	:	
& PUBLIC SERVICE ELECTRIC AND GAS	:	BPU DOCKET NOS. GO18101112
COMPANY FOR APPROVAL OF ITS	:	EO10121113
CLEAN ENERGY FUTURE-ENERGY	:	
EFFICIENCY ("CEF-EE") PROGRAM	:	
ON A REGULATED BASIS	:	

**MOTION TO INTERVENE OF DIRECT ENERGY BUSINESS, LLC,
DIRECT ENERGY BUSINESS MARKETING, LLC,
DIRECT ENERGY SERVICES, LLC, GATEWAY ENERGY SERVICES
CORPORATION, NJR RETAIL SERVICES COMPANY
AND CENTRICA BUSINESS SOLUTIONS**

Pursuant to N.J.A.C. 17:27-16.1 and 16.2, Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), and NJR Retail Services Company ("NJR") (collectively, "Direct Energy") and Centrica Business Solutions hereby files this Motion to Intervene ("Motion") in the above-captioned proceeding initiated by a Petition filed on October 11, 2018 by Public Service Electric and Gas Company ("PSE&G") for Approval of its Clean Energy Future-Energy Efficiency ("CEF-EE") Program on a Regulated Basis ("Petition"). In support of its Motion, Direct Energy states as follows:

I. INTRODUCTION

1. Direct Energy is one of the largest competitive retail providers of electricity, natural gas and home services in North America, with over 4 million customer relationships, multiple brands and roughly 5,000 employees. As third-party energy suppliers in New Jersey, all five intervening Direct Energy companies hold electric power and/or gas supplier licenses, as follows:

Direct Business – ESL-0165 (electric power) and GSL-0145 (gas supplier); Direct Marketing – ESL-0142 (electric power) and GSL-0128 (gas supplier); Direct Services – ESL-0078 (electric power) and GSL-0088 (gas supplier); Gateway – ESL-0166 (electric power) and GSL-0146 (gas supplier); and NJR – GSL-0173 (gas supplier). Direct Energy is licensed to sell natural gas and electricity to customers in PSE&G’s service territory. Direct Energy and its affiliated Connected Home division offer Hive products in the direct to consumer market, as well as through partners such as retail energy providers.

2. Centrica Business Solutions, a subsidiary of Centrica plc and affiliate of Direct Energy, integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management capabilities. Offering innovative distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

3. By this Motion to Intervene, Direct Energy and Centrica Business Solutions seek party status in the above-captioned proceeding for the purpose of protecting their direct and substantial interest in the outcome of this proceeding. If PSE&G is granted approval by the New Jersey Board of Public Utilities (“Board” or “BPU”) to implement the new ratepayer-funded CEF-EE Program proposed by PSE&G, the interests of Direct Energy and Centrica Business Solutions will be directly and substantially affected.

4. Specifically, as a third-party supplier, Direct Energy has a substantial and direct interest in a number of issues concerning PSE&G’s proposal to recover costs of a Clean Energy Future – Electric Vehicle and Energy Storage Program. Likewise, as a market leader in distributed energy solutions, Centrica Business Solutions has a substantial and direct interest in several issues

1

regarding PSE&G proposal to use ratepayer funds to support programs that it is offering in the private market. These issues include PSEG's proposals which would allow it to do the following:

- Utilize its monopoly status as a public utility and rely on ratepayer funds to subsidize the deployment and installation of smart energy thermostats, appliances, lighting, and other equipment, which are already being provided through a mature private market;
- Offer customers an up-front rebate on HVAC, smart thermostats, appliances, lighting, and other equipment, using funds collected from its ratepayers, thereby placing other vendors at a competitive disadvantage;
- Replace the need for electric and natural gas infrastructure by designing a plan to achieve desired demand reductions within targeted zones without initiating a competitive process to meet demand reductions at lowest cost, and using innovative approaches designed by the market;
- Capitalize on its public utility monopoly role to promote certain vendors over other competing entities to perform professional installation services;
- Use its public utility bill to finance the products and the installation fees, which gives it an advantage over other entities promoting these products who do not have a direct billing relationship with customers, including Direct Energy; and
- Capture customer data that is available to the Company in its monopoly role as a public utility and use it to provide value-added services to consumers, including home energy audits, which are more appropriately offered by entities in the competitive market, including Direct Energy.

5. Direct Energy and Centrica Business Solutions submit that these issues, among others, should be thoroughly examined in this proceeding.

II. BACKGROUND

6. On September 26, 2018, PSE&G initially filed this matter with the Board along with its Clean Energy Future – Electric Vehicle and Energy Storage (“CEF-EVES”)¹ and Clean Energy Future – Energy Cloud (“CEF-EC”)² Programs. At the request of the Board, PSE&G filed these three Clean Energy Future Programs separately, with their own petitions and docket numbers. On October 11, 2018, PSE&G filed its Petition with the Board pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, N.J.S.A. 48:3-98.1, seeking approval for a Clean Energy Future – Energy Efficiency Program.

7. The CEF-EE Program consists of 22 subprograms, including seven residential subprograms, seven commercial and industrial (“C&I”) subprograms, and eight pilot subprograms. Petition at ¶ 14. The total proposed investment for the CEF-EE Program is approximately \$2.5 billion and with a \$283 million expense budget over the proposed 6-year term of the program. Petition at ¶ 28. PSE&G proposes to recover and track costs via a new CEF-EE Program component (“CEF-EEC”) of the Company's electric and gas Green Programs Recovery Charge (“GPRC”), which would be filed annually after the proposed initial period. Petition at ¶ 32. In addition, the Company proposes a mechanism for recovering lost revenues. See Petition at ¶¶ 25-26.

8. Along with its Petition, PSE&G filed the following Direct Testimonies in support thereof: Karen Reif (“Attachment 1”); Stephen Swetz (“Attachment 2”); and Daniel Hansen (“Attachment 3”).

¹ Docket No. EO18101111

² Docket No. EO18101115.

9. The Direct Testimony of Karen Reif describes the 22 CEF-EE subprograms as follows:

- **Residential Efficient Products:** PSE&G proposes to provide rebates and on-bill repayment for HVAC, smart thermostats, appliances, lighting, and other equipment.
- **Residential Existing Homes:** PSE&G proposes to provide Rebates and on-bill repayment for energy audit, direct install of efficient equipment, and broader weatherization / appliance replacement services
- **Residential Behavioral:** PSE&G proposes to provide data analytics, home energy reports, and online energy audits.
- **Residential K-12 Education:** PSE&G proposes to provide curriculum to teach energy efficiency and a take-home kit with efficient products.
- **Residential New Construction:** PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.
- **Residential Multi-Family:** PSE&G proposes to provide energy audit and direct install of efficient equipment at no charge to tenants.
- **Residential Income Eligible:** PSE&G proposes to provide energy audit, direct install of efficient equipment, and broader weatherization/appliance replacement services at no charge.
- **C&I Perspective:** PSE&G proposes to provide rebates and on-bill repayment for HVAC, lighting, motors & drives, refrigeration, water heaters, air compressors, and food service equipment.

- **C&I Custom:** PSE&G proposes to provide custom incentives for large energy efficiency projects, including on-bill repayment.
- **C&I Small Non-Residential Efficiency:** PSEG proposes to provide rebates and on-bill repayment for direct-installed EE measures to small non-residential customers of lighting, controls, refrigeration, heating and air conditioning upgrades, etc.
- **C&I New Construction:** PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.
- **C&I Energy Management:** PSE&G proposes to provide retro-commissioning and strategic energy management: optimizing existing systems with little to no equipment upgrades.
- **C&I Engineered Solutions:** PSE&G proposes to provide whole-building engineered energy saving solutions to hospitals, school districts, universities, municipalities, apartment buildings and other non-profit public entities.
- **C&I Streetlight:** PSE&G proposes to provide replacement of HPS and LED luminaires and smart cities pilot.
- **Emerging Technologies & Approaches:** PSE&G proposes to provide funding and support to identify, demonstrate, and deploy the next generation of energy efficiency technologies/
- **Energy Efficiency as a Service Pilot:** PSE&G proposes to provide monthly service contracts, incentives, and extensive guidance on energy efficient building equipment and software.

- **Smart Homes Pilot:** PSE&G proposes to provide automated and personalized savings measures using an ecosystem of energy efficient devices and technologies working in coordination.
- **Non-Wires Alternative Pilot:** PSE&G proposes to defer or replace the need for electric infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- **Non-Pipes Solution Pilot:** PSE&G proposes to defer or replace the need for gas infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- **Volt Var Pilot:** PSE&G proposes to use smart-grid technology to automate control of the electric power distribution grid to reduce energy consumption, peak demand, system losses and enable more solar.
- **Business Energy Reports Pilot:** PSE&G proposes to use data analytics, home energy reports and online energy audits for businesses.
- **Building Operator Certification Pilot:** PSE&G proposes to provide a training program for building operations staff responsible for energy-using equipment.

Attachment 1 at 6-9.

10. The Direct Testimony of Stephen Swetz describes the revenue requirement methodologies, cost recovery mechanisms, and provides a bill impact analysis for the EEF-EE Program.

11. The Direct Testimony of Daniel Hansen focuses on PSE&G's Green Enabling Mechanism ("GEM") proposal, which Mr. Hansen said is intended to remove the disincentive to

promote conservation and energy efficiency that PSE&G faces because of its retail distribution rate designs. Attachment 3 at 1-2.

12. By Order adopted on October 29, 2018, the Board determined that the Petition should be retained by the Board for hearing and designated Commissioner Dianne Solomon as the presiding officer. The Board further established November 16, 2018 as the date by which entities seeking to intervene or participate must file the appropriate application. The Order went into effect November 8, 2018.

III. APPLICABLE LEGAL STANDARDS

13. Under N.J.A.C. 1:1-16.1, any person or entity who will be substantially and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

14. In ruling on a motion to intervene, the presiding officer “shall take into consideration the nature and extent of the movant’s interest in the outcome of the case, whether or not 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, the prospect of confusion or undue delay arising from the movant’s inclusion, and other appropriate matters.” N.J.A.C. 1:1-16.3. *See, e.g., In the Matter of the Petition of Public Service Electric and Gas Company Offering an Energy Stimulus Program*, Docket No. EO09010058 (Order Granting Intervention and Admission Pro Hac Vice dated March 27, 2009).

IV. ARGUMENT

15. This Motion to Intervene should be granted because the interests of Direct Energy and Centrica Business Solutions will be substantially and directed affected by the outcome of this proceeding and these interests are sufficiently different from those of any party so as to add measurably and constructively to the scope of the case.

16. This Motion is timely and will not delay or otherwise disrupt the adjudication of this proceeding.

17. Fundamental fairness and due process considerations require that Direct Energy and Centrica Business Solutions be afforded an opportunity to fully participate as an intervenor in this proceeding, due to their substantial and direct interests in the outcome of this proceeding and the proposals of PSE&G to use its monopoly status and ratepayer funds to gain a competitive advantage over other market participants.

18. While PSE&G has described itself as being uniquely positioned to offer the products and services proposed, a mature private market is already available for consumers to purchase these products and services.

19. Direct Energy and its affiliated Connected Home division offer Hive products in the direct to consumer market, as well as through partners such as retail energy providers, which include Hive Active Thermostat™, Hive Active Light™ bulbs, Hive Active Plug™ and Hive Window and Door Sensor. With Hive, consumers can control their heating and cooling, lights, plugs and sensors through a mobile application.

20. In addition, Direct Energy has a family of brands, including: (i) Mister Sparky, which designs, installs, services and repairs electrical systems and parts; (ii) Airtron, which offers HVAC solutions including new installations; and (iii) One-Hour Heating and Air Conditioning, which offers installation, repair, and maintenance for heating, ventilation and air conditioning systems. Direct Energy also offers home energy audits, using customer data to perform analytics and offer recommendations on how customers can reduce their overall energy consumption.

21. Centrica Business Solutions integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management

capabilities. The energy solutions integrated by Centrica Business Solutions include solar, combined heat and power, energy efficiency, energy insight, demand response, power generation and energy storage. Centrica Business Solutions provides end-to-end energy services across design, manufacture, financing, installation and maintenance. Offering innovative distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

22. If the BPU approves the sub-programs proposed by PSE&G, along with the cost recovery which is sought from ratepayers, PSE&G would be utilizing its monopoly status as a regulated public utility to directly compete with services that are available through the private market, which would adversely affect Direct Energy and Centrica Business Solutions.

23. Similarly, BPU approval of PSE&G's proposal to offer customers an up-front rebate on HVAC, smart thermostats, appliances, lighting, and other equipment, which would be funded through ratepayer dollars, would place other vendors, including Direct Energy and Centrica Business Solutions, at a competitive disadvantage.

24. Further, endorsement by BPU of PSE&G's proposal to design a plan to achieve desired demand reductions within targeted zones may place suppliers, including Direct Energy, at a competitive disadvantage if PSE&G is not required to select suppliers through a competitive process to meet demand reductions and to use technology designed by the market.

25. In addition, approving PSE&G's proposal to use its status as a public utility to promote certain installation services would provide those vendors with a competitive advantage over other entities, including Direct Energy and Centrica Business Solutions.

26. Moreover, allowing PSE&G to use its public utility bill to finance the products and the installation fees would place Direct Energy at a competitive disadvantage since it does not have a direct billing relationship with customers.

27. Finally, permitting PSE&G to capture customer data that is available to the Company in its public utility role and use it to provide value-added services to consumers, including home energy audits, would adversely affect other market participants, including Direct Energy, particularly when such services are more appropriately offered by the market. Direct Energy and Centrica Business Solutions have a concern about the potential ability of PSE&G to share this data with preferred vendors to the exclusion of other market participants, without any authorization or other privacy and security protocols in place.


28. For these reasons, it is critical that Direct Energy and Centrica Business Solutions be granted intervention so that they can adequately guard against being placed at a competitive disadvantage relative to the regulated public utility in the provision of products and services to customers that are already flourishing in the private market. Given Direct Energy's and Centrica Business Solutions' active participation in offering these products and services, their interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case.

III. CONCLUSION

On the basis of the foregoing, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, Gateway Energy Services Corporation, NJR Retail Services Company, and Centrica Business Solutions respectfully request that the Office of Administrative Law grant this Motion to Intervene so that Direct Energy and Centrica Business Solutions may have full party status as an intervenor in this proceeding. Direct Energy and

Centrica Business Solutions have interests in this proceeding that will be substantially and directed affected by the outcome of this proceeding, their interests are sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, and this Motion is timely and will not delay or otherwise disrupt the adjudication of this proceeding.

Respectfully Submitted,



Christopher E. Torkelson, Esq.
NJ Attorney ID No. 022961996
Eckert Seamans Cherin & Mellott, LLC
P.O. Box 5404
Princeton, NJ 08543
609-989-5059
ctorkelson@eckertseamans.com

Karen O. Moury, Esq. (pro hac vice pending)
PA Attorney ID No. 36879
Kristine Marsilio, Esq. (pro hac vice pending)
PA Attorney ID No. 316479
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000
kmoury@eckertseamans.com
kmarsilio@eckertseamans.com

Attorneys for Direct Energy and Centrica Business
Solutions

Dated: November 16, 2018

CERTIFICATION OF FILING AND SERVICE

The undersigned hereby certifies that on the date set forth below an original and ten copies of the within Motion to Intervene was sent for filing via hand delivery to the State of New Jersey, Board of Public Utilities as follows:

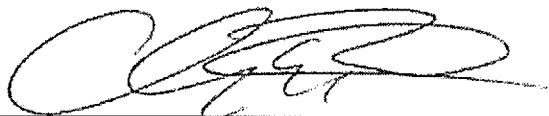
Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P. O. Box 350
Trenton, New Jersey 08625-0350

and that two copies of each of the aforementioned documents were served via email and FedEx upon counsel of record as follows:

Stephanie A. Brand, Esq.
The Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, New Jersey 08625

Matthew M. Weissman, Esq.
Gen. Regulatory Counsel – Rates
PSEG Service Co.
80 Park Plaza T5
Newark, New Jersey 07102

and that copies of each of the aforementioned documents were served via electronic mail to the parties identified on the attached service list.



Christopher E. Torkelson

Dated: November 16, 2018

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

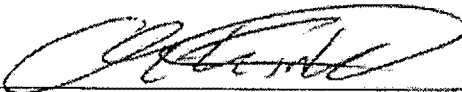
IN THE MATTER OF THE PETITION OF	:	
PUBLIC SERVICE ELECTRIC & GAS	:	
COMPANY FOR APPROVAL OF ITS CLEAN	:	BPU Docket Nos. GO18101112 &
ENERGY FUTURE-ENERGY EFFICIENCY	:	EO10121113
("CEF-EE") PROGRAM ON A REGULATED	:	
BASIS	:	

MOTION FOR ADMISSION *PRO HAC VICE*

Intervenors, Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), (collectively, "Direct Energy") and Centrica Business Solutions, respectfully files this Motion for Admission *Pro Hac Vice* of Karen O. Moury, Esq. and Kristine E. Marsilio, Esq. with the New Jersey Board of Public Utilities ("Board" or "BPU"). In support of its motion, Direct Energy shall rely upon the Certification of Christopher E. Torkelson, Esq., and the Affidavits of Karen O. Moury, Esq. and Kristine E. Marsilio, Esq., filed and served herewith.

**ECKERT SEAMANS CHERIN &
MELLOTT, LLC**

Attorneys for Intervenors Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, Gateway Energy Services Corporation, and Centrica Business Solutions

By: 
Christopher E. Torkelson

Dated: November 16, 2018

CERTIFICATION OF FILING AND SERVICE

The undersigned hereby certifies that on the date set forth below an original and ten copies of the within Motion for Admission *Pro Hac Vice*, Certification of Christopher E. Torkelson, Esq. and Affidavits of Karen O. Moury, Esq. and Kristine E. Marsilio, Esq. were sent for filing via hand delivery to the State of New Jersey, Board of Public Utilities as follows:

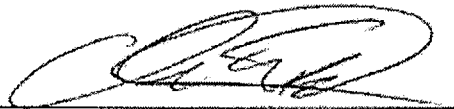
Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P. O. Box 350
Trenton, New Jersey 08625-0350

and that copies of each of the aforementioned documents were served via email and FedEx upon counsel of record as follows:

Stephanie A. Brand, Esq.
The Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, New Jersey 08625

Matthew M. Weissman, Esq.
Gen. Regulatory Counsel – Rates
PSEG Service Co.
80 Park Plaza T5
Newark, New Jersey 07102

and that copies of each of the aforementioned documents were served via electronic mail to the parties identified on the attached service list.



Christopher E. Torkelson, Esq.

Dated: November 16, 2018

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

IN THE MATTER OF THE PETITION OF	:	
PUBLIC SERVICE ELECTRIC & GAS	:	
COMPANY FOR APPROVAL OF ITS CLEAN	:	BPU Docket Nos. GO18101112 &
ENERGY FUTURE-ENERGY EFFICIENCY	:	EO10121113
("CEF-EE") PROGRAM ON A REGULATED	:	
BASIS	:	

**CERTIFICATION OF CHRISTOPHER E. TORKELSON, ESQ.
IN SUPPORT OF MOTION FOR ADMISSION
*PRO HAC VICE***

I, **CHRISTOPHER E. TORKELSON**, of full age, certify as follows:

1. I am an attorney-at-law admitted to practice in the State of New Jersey and a member of the law firm of Eckert Seamans Cherin & Mellott, LLC ("Eckert Seamans"), attorneys for intervenors, Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), (collectively, "Direct Energy") and Centrica Business Solutions. I am a member in good standing of the Bar of the State of New Jersey and qualified to practice pursuant to R. 1:21-1.

2. I am familiar with all of the facts and circumstances herein. I make this Certification in support of the applications of the following attorneys of the law firm of Eckert Seamans Cherin & Mellott, LLC to appear *pro hac vice* on behalf of Direct Energy and Centrica Business Solutions: Karen O. Moury, Esq., a member, and Kristine E. Marsilio, Esq., an associate. I will be associated with these attorneys in the handling of this matter in accordance with R. 1:21-2(a)(1)(B).

3. Ms. Moury and Ms. Marsilio are attorneys practicing with the law firm of Eckert Seamans Cherin & Mellott, LLC in its Harrisburg office, located at 213 Market Street, 8th Floor, Harrisburg, PA 17101.

4. Ms. Moury is a member in good standing of the Bar of the Commonwealth of Pennsylvania, having been admitted there in 1982. Ms. Marsilio is a member in good standing of the Bar of the Commonwealth of Pennsylvania, having been admitted there in 2013. Ms. Moury and Ms. Marsilio are not now and have never been under any suspension or disbarment by the bar of any Court, and there are no disciplinary proceedings pending against them.

5. For purposes of this litigation, Ms. Moury and Ms. Marsilio will be associated with me, New Jersey counsel of record for Direct Energy and Centrica Business Solutions, in accordance with R. 1:21-1. I will continue to serve as counsel of record for Direct Energy and Centrica Business Solutions and will ensure that Ms. Moury and Ms. Marsilio comply with the New Jersey Rules of Court regarding *pro hac vice* admission, including the requirements of R. 1:20-1(b), 1:21-2(b) and 1:28-2.

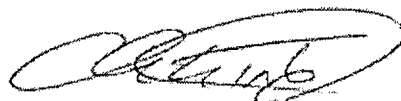
6. Ms. Moury and Ms. Marsilio have a long-standing attorney-client relationship with Direct Energy and Centrica Business Solutions and have substantial experience representing the interests of retail energy providers in regulatory and administrative proceedings. This proceeding, initiated by a Petition filed by Public Service Electric and Gas Company (PSE&G) involves a complex field of law in which Ms. Moury and Ms. Marsilio are specialists. Consequently, the participation of Ms. Moury and Ms. Marsilio in this litigation would substantially facilitate the representation of Direct Energy and Centrica Business Solutions.

7. There is good cause for the *pro hac vice* admission of Ms. Moury and Ms. Marsilio as they are fully familiar with the facts, issues and pleadings in this action and no delay

in the conduct of the proceedings would be occasioned by their acting as attorneys for Direct Energy and Centrica Business Solutions in this matter.

8. In further support of this application, Direct Energy and Centrica Business Solutions will rely upon the Affidavits of Karen O. Moury, Esq. and Kristine E. Marsilio, Esq., submitted herewith.

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

A handwritten signature in black ink, appearing to read "C. Torkelson", is written over a horizontal line.

Christopher E. Torkelson, Esq.

Dated: November 16, 2018

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF	:	
PUBLIC SERVICE ELECTRIC & GAS	:	
COMPANY FOR APPROVAL OF ITS CLEAN	:	BPU Docket Nos. GO18101112 &
ENERGY FUTURE-ENERGY EFFICIENCY	:	EO10121113
("CEF-EE") PROGRAM ON A REGULATED	:	
BASIS	:	

AFFIDAVIT OF KAREN O. MOURY, ESQ. IN SUPPORT
OF MOTION FOR ADMISSION *PRO HAC VICE*

Harrisburg)
) ss:
Pennsylvania)

I, KAREN O. MOURY, duly sworn according to law, depose and say:

1. I am an attorney-at-law in the Commonwealth of Pennsylvania and a member in the Harrisburg, Pennsylvania office of Eckert Seamans Cherin & Mellott, LLC ("Eckert Seamans"), counsel for intervenors Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway") and NJR Retail Services Company ("NJR"), (collectively, "Direct Energy") and Centrica Business Solutions. I am personally familiar with the facts set forth herein and authorized to make this affidavit, pursuant to R. 1:21-2, in support of my application to be admitted *pro hac vice* before the New Jersey Board of Public Utilities ("Board" or "BPU").

2. I am a member in good standing of the Bar of the Commonwealth of Pennsylvania, having been admitted to that bar in 1982. I am not now and have never been under any suspension or disbarment by the Bar of any Courts and there are no disciplinary proceedings pending against

me. During the pendency of this action, I will notify the Board of any change in standing with the Bar of any other court, and notify the Board immediately if any actions are instituted against me in affecting my standing with the Bar of any state. I am domiciled and principally practice law in the Commonwealth of Pennsylvania.

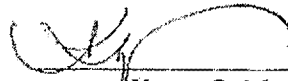
3. I am associated in this matter with New Jersey counsel of record, Christopher E. Torkelson, Esq., an attorney in the Princeton, New Jersey office of Eckert Seamans. I am advised that Mr. Torkelson is a member in good standing of the Bar of the State of New Jersey and is qualified to practice pursuant to R. 1:21-1.

4. I respectfully submit that good cause exists for my admission *pro hac vice*. I have been requested by Direct Energy and Centrica Business Solutions, with whom my firm has a long-standing attorney-client relationship, to represent them in this matter. I have a long-standing attorney-client relationship with Direct Energy and Centrica Business Solutions and have substantial experience representing the interests of retail energy providers in regulatory and administrative proceedings. This proceeding, initiated by a Petition filed by Public Service Electric and Gas Company (PSE&G) involves a complex field of law in which I am a specialist. Consequently, my participation in this litigation would substantially facilitate the representation of Direct Energy and Centrica Business Solutions. I am fully familiar with the facts and circumstances surrounding this case. My work in connection with this representation will assist in the handling of this matter.

5. As a condition of my admission, I agree to be bound by and comply with the requirements of all applicable rules, including the requirements of R. 1:20-1(b), R. 1:21-2 and R. 1:28-2, and to pay all fees as required by these rules. I will remain current as required by the within cited rules.

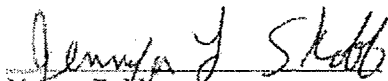
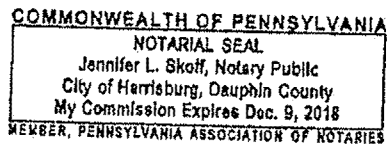
6. I shall make sure that all pleadings, briefs and other papers filed with the Board shall be signed and filed by an attorney of record who is authorized to practice before the Board.

7. Based upon the foregoing, I respectfully request that I be admitted *pro hac vice* to participate in this action.



Karen O. Moury, Esq.

SUBSCRIBED AND SWORN before
me this 16th day of November, 2018


Notary Public

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF	:	
PUBLIC SERVICE ELECTRIC & GAS	:	
COMPANY FOR APPROVAL OF ITS CLEAN	:	BPU Docket Nos. GO18101112 &
ENERGY FUTURE-ENERGY EFFICIENCY	:	EO10121113
("CEF-EE") PROGRAM ON A REGULATED	:	
BASIS	:	

AFFIDAVIT OF KRISTINE E. MARSILIO, ESQ. IN SUPPORT
OF MOTION FOR ADMISSION *PRO HAC VICE*

Harrisburg)
) ss:
Pennsylvania)

I, KRISTINE E. MARSILIO, duly sworn according to law, depose and say:

1. I am an attorney-at-law in the Commonwealth of Pennsylvania and an associate in the Harrisburg, Pennsylvania office of Eckert Seamans Cherin & Mellott, LLC ("Eckert Seamans"), counsel for intervenors Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway") and NJR Retail Services Company ("NJR"), (collectively, "Direct Energy") and Centrica Business Solutions. I am personally familiar with the facts set forth herein and authorized to make this affidavit, pursuant to R. 1:21-2, in support of my application to be admitted *pro hac vice* before the New Jersey Board of Public Utilities ("Board" or "BPU").

2. I am a member in good standing of the Bar of the Commonwealth of Pennsylvania, having been admitted to that bar in 2013. I am not now and have never been under any suspension or disbarment by the Bar of any Courts and there are no disciplinary proceedings pending against

me. During the pendency of this action, I will notify the Board of any change in standing with the Bar of any other court, and notify the Board immediately if any actions are instituted against me in affecting my standing with the Bar of any state. I am domiciled and principally practice law in the Commonwealth of Pennsylvania.

3. I am associated in this matter with New Jersey counsel of record, Christopher E. Torkelson, Esq., an attorney in the Princeton, New Jersey office of Eckert Seamans. I am advised that Mr. Torkelson is a member in good standing of the Bar of the State of New Jersey and is qualified to practice pursuant to R. 1:21-1.

4. I respectfully submit that good cause exists for my admission *pro hac vice*. I have been requested by Direct Energy and Centrica Business Solutions, with whom my firm has a long-standing attorney-client relationship, to represent them in this matter. I have a long-standing attorney-client relationship with Direct Energy and Centrica Business Solutions and have substantial experience representing the interests of retail energy providers in regulatory and administrative proceedings. This proceeding, initiated by a Petition filed by Public Service Electric and Gas Company (PSE&G) involves a complex field of law in which I am a specialist. Consequently, my participation in this litigation would substantially facilitate the representation of Direct Energy and Centrica Business Solutions. I am fully familiar with the facts and circumstances surrounding this case. My work in connection with this representation will assist in the handling of this matter.

5. As a condition of my admission, I agree to be bound by and comply with the requirements of all applicable rules, including the requirements of R. 1:20-1(b), R. 1:21-2 and R. 1:28-2, and to pay all fees as required by these rules. I will remain current as required by the within cited rules.

6. I shall make sure that all pleadings, briefs and other papers filed with the shall be signed and filed by an attorney of record who is authorized to practice before the ~~B~~

7. Based upon the foregoing, I respectfully request that I be admitted *pro hac* _____ participate in this action.

Kristine E. Marsilio
Kristine E. Marsilio, Esq.

SUBSCRIBED AND SWORN before
me this 16th day of November, 2018

Jennifer L. Skoff
Notary Public

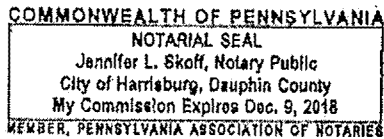


EXHIBIT B

**ECKERT
SEAMANS**
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC
Princeton Pike Corporate Center
2000 Lenox Drive, Suite 203
Lawrenceville, NJ 08648

TEL 609 392 2100
FAX 609 392 7956
www.eckertseamans.com

Mailing Address:
P.O. Box 5404
Princeton, NJ 08543

File No.: 300135-70

Christopher E. Torkelson, Esq.
609 989 5059
ctorkelson@eckertseamans.com

December 6, 2018

Via FedEx and Email

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

**RE: In the Matter of 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.: GO18101112 & EO10121113**

Dear Secretary Camacho-Welch:

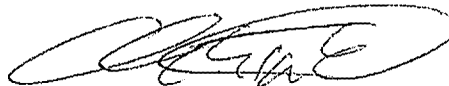
Enclosed are an original and ten (10) copies of a Supplemental Motion to Intervene of Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), and Gateway Energy Services Corporation ("Gateway"), (collectively, "Direct Energy"), NRG Energy, Inc. ("NRG"), Just Energy Group, Inc. ("Just Energy") and Centrica Business Solutions (collectively the "Market Participants") in the above proceeding. By copy of this letter, copies of this Supplemental Motion are being forwarded on this date via email to all persons whose names appear on the attached Service List.

This Supplemental Motion identifies two additional entities, NRG and Just Energy, who are joining in the original request to intervene, on the same grounds as the original moving parties. There are no other substantive changes to the original Motion.

I also have enclosed an extra copy of this Supplemental Motion to be stamped "filed" and returned to this office in the enclosed self-addressed envelope.

Thank you for your courtesies.

Respectfully submitted,



Christopher E. Torkelson

CET/ldr

Enclosures

cc: Stefanie A. Brand, Esq. (w/enc., via email and FedEx)
Matthew M. Weissman, Esq. (w/enc., via email and FedEx)
All Persons on Attached Service List (w/enc., via email only)

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ENERGY EFFICIENCY
("CEF-EE") PROGRAM ON A REGULATED BASIS

BPU DOCKET NOS. GO18101112 & EO10121113

SERVICE LIST

PSEG

PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, NJ 07102
(973) 430-5811

Joseph Accardo, Jr.
joseph.accardojr@pseg.com

Michele Falcao
michele.falcao@pseg.com

Justin Incardone, Esq.
justin.incardone@pseg.com

Danielle Lopez, Esq.
danielle.lopez@pseg.com

Joseph A. Shea, Esq.
joseph.shea@pseg.com

Bernard Smallis
bernard.smallis@pseg.com

Matthew M. Weissman, Esq.
matthew.weissman@pseg.com

Caitlyn White
caitlyn.white@pseg.com

BPU

Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350

Aida Camacho-Welch
Secretary of the Board
Aida.camacho@bpu.nj.gov

Paul Flanagan, Esq.
Executive Director
paul.flanagan@bpu.nj.gov

Noreen M. Giblin, Esq.
Chief Counsel
noreen.giblin@bpu.nj.gov

Kenneth Sheehan, Director
Division of Clean Energy
ken.sheehan@bpu.nj.gov

Sherri Jones, Assistant Director
Division of Clean Energy
sherri.jones@bpu.nj.gov

Scott Hunter
Division of Clean Energy
benjamin.hunter@bpu.nj.gov

Mona Mosser
Division of Clean Energy
mona.mosser@bpu.nj.gov

Mahogany A. Hall
Division of Clean Energy
mahogany.hall@bpu.nj.gov

Benjamin Goldstein
Division of Clean Energy
benjamin.goldstein@bpu.nj.gov

Stacy Peterson, Director
Division of Energy
stacy.peterson@bpu.nj.gov

Andrea Reid
Division of Energy
andrea.reid@bpu.nj.gov

Bart Kilar
Division of Energy
bart.kilar@bpu.nj.gov

Bethany Romaine, Esq.,
Deputy Chief Counsel
bethany.romaine@bpu.nj.gov

Rachel Boylan, Esq.
Counsel's Office
rachel.boyland@bpu.nj.gov

Stacy Ho Richardson, Esq.
Counsel's Office
stacy.richardson@bpu.nj.gov

Rate Counsel

Division of Rate Counsel
140 East Front Street, 4th Floor
Post Office Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Director
sbrand@rpa.nj.gov

Brian Lipman, Litigation Manager
blipman@rpa.nj.gov

Felicia Thomas-Friel, Esq.
fthomas@rpa.nj.gov

Kurt Lewandowski, Esq.
klewando@rpa.nj.gov

Sarah Steindel, Esq.
ssteindel@rpa.nj.gov

Maura Caroselli
mcaroselli@rpa.nj.gov

Shelley Massey
smassey@rpa.nj.gov

Lisa Gurkas
lgurkas@rpa.nj.gov

DAG

Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Caroline Vachier, DAG, Section Chief
Caroline.vachier@law.njoag.gov

Geoffrey Gersten, DAG
Geoffrey.gersten@law.njoag.gov

Andrew Kuntz, DAG
Andrew.kuntz@law.njoag.gov

Alex Moreau, DAG
Alex.moreau@law.njoag.gov

Timothy Oberleiton
Timothy.Oberleiton@law.njoag.gov

Emma Xiao
Emma.xiao@law.njoag.gov

Jenique Jones
jenique.jones@law.njoag.gov

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW

IN THE MATTER OF THE PETITION OF	:	BPU DOCKET NOS. GO18101112
& PUBLIC SERVICE ELECTRIC AND GAS	:	EO10121113
COMPANY FOR APPROVAL OF ITS	:	
CLEAN ENERGY FUTURE-ENERGY	:	
EFFICIENCY ("CEF-EE") PROGRAM	:	
ON A REGULATED BASIS	:	

SUPPLEMENTAL MOTION TO INTERVENE OF
DIRECT ENERGY BUSINESS, LLC,
DIRECT ENERGY BUSINESS MARKETING, LLC,
DIRECT ENERGY SERVICES, LLC, GATEWAY ENERGY SERVICES
CORPORATION, NJR RETAIL SERVICES COMPANY, NRG ENERGY, INC.,
JUST ENERGY GROUP INC. AND CENTRICA BUSINESS SOLUTIONS

Pursuant to N.J.A.C. 1:1-16.1 and 16.2, Direct Energy Business, LLC ("Direct Business"), Direct Energy Business Marketing, LLC ("Direct Marketing"), Direct Energy Services, LLC ("Direct Services"), Gateway Energy Services Corporation ("Gateway"), and NJR Retail Services Company ("NJR") (collectively, "Direct Energy"), NRG Energy, Inc. ("NRG"), Just Energy Group Inc. ("Just Energy") and Centrica Business Solutions (collectively, the "Market Participants") hereby file this Supplemental Motion to Intervene ("Supplemental Motion") in the above-captioned proceeding initiated by a Petition filed on October 11, 2018 by Public Service Electric and Gas Company ("PSE&G") for Approval of its Clean Energy Future-Energy Efficiency ("CEF-EE") Program on a Regulated Basis ("Petition").¹ In support of their Supplemental Motion, the Market Participants state as follows:

¹ The Supplemental Motion includes two additional entities requesting intervenor status – NRG and Just Energy, renames the motioning parties to the "Market Participants," and corrects a typographical error in Paragraph 6 that was identified in the Letter Response to PSE&G's Opposition to Motion to Intervene of Direct Energy and Centrica Business Solutions. It also contains new paragraphs (2, 3, 23, 24 and 25) to describe NRG and Just Energy

I. INTRODUCTION

1. Direct Energy is one of the largest competitive retail providers of electricity, natural gas and home services in North America, with over 4 million customer relationships, multiple brands and roughly 5,000 employees. As third-party energy suppliers in New Jersey, all five intervening Direct Energy companies hold electric power and/or gas supplier licenses, as follows: Direct Business – ESL-0165 (electric power) and GSL-0145 (gas supplier); Direct Marketing – ESL-0142 (electric power) and GSL-0128 (gas supplier); Direct Services – ESL-0078 (electric power) and GSL-0088 (gas supplier); Gateway – ESL-0166 (electric power) and GSL-0146 (gas supplier); and NJR – GSL-0173 (gas supplier). Direct Energy is licensed to sell natural gas and electricity to customers in PSE&G's service territory. Direct Energy and its affiliated Connected Home division offer Hive products in the direct to consumer market, as well as through partners such as retail energy providers.

2. NRG is a leading integrated power company in the U.S. A Fortune 500 company, NRG operates a reliable and efficient electric generation, a demand-side business focusing on demand response and other customer-sited energy efficiency and distributed energy investments, and a retail platform serving residential and commercial businesses. Its retail electricity providers serve almost three million customers across more than a dozen states. One million of those customers are in the Northeast markets, which include customers in New Jersey. Its demand-side businesses work with consumers on an "all-of-the-above" approach to controlling their energy costs and content. NRG's retail companies have more than 25 years combined experience with

and to provide information relevant to their participation in this proceeding. Also, Paragraph 18 contains justification for the inclusion of NRG and Just Energy at this time. Otherwise, the Supplemental Motion makes no substantive changes to the original Motion. Notably, NRG's and Just Energy's interests in this proceeding are aligned with those of Direct Energy and Centrica Business Solutions, and the Market Participants intend to jointly litigate this case. Therefore, neither the number of parties nor the issues to be addressed, relative to the original Motion filed by Direct Energy and Centrica Business Solutions, would change as a result of granting the Supplemental Motion.

retail energy competition and customer service. NRG is headquartered in Princeton, New Jersey. The company has several licensed third party suppliers that are actively serving residential, commercial, industrial and institutional customers across New Jersey.² These NRG retail companies offer customers a range of products including 100% renewable, cash back and travel rewards.

3. Just Energy Group Inc. is the parent company of licensed third party suppliers serving retail customers in New Jersey.³ Specializing in electricity, natural gas and green energy, the Just Energy corporate family serves close to two million residential and commercial customers throughout North America, the United Kingdom, Ireland and Germany, including electric and natural gas supply customers in New Jersey. Just Energy's affiliates generally offer a wide range of energy products and home energy management services such as long-term fixed-price, flat bill programs, smart thermostats and home water filtration. Just Energy and its affiliates serve residential and commercial customers throughout New Jersey.

4. Centrica Business Solutions, a subsidiary of Centrica plc and affiliate of Direct Energy, integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management capabilities. Offering innovative distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

5. By this Supplemental Motion to Intervene, the Market Participants seek party status in the above-captioned proceeding for the purpose of protecting their direct and substantial interest

² As third-party energy suppliers in New Jersey, NRG holds electric power and/or gas supplier licenses, as follows: Energy Plus Holdings LLC – ESL-0087, Independence Energy Group LLC – ESL-0100, Energy Plus Natural Gas LLC – GSL-0100, Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business – ESL-0093 and GSL-0176, Green Mountain Energy Company – ESL-0098, and XOOM Energy New Jersey, LLC – ESL-0115 and GSL-0112.

³ Just Energy holds third-party supplier licenses in New Jersey as follows: Hudson Energy Services, LLC – ESL-0083 and GSL-0069 and Just Energy Solutions, Inc. – ESL-0046 and GSL-0116.

in the outcome of this proceeding. If PSE&G is granted approval by the New Jersey Board of Public Utilities ("Board" or "BPU") to implement the new ratepayer-funded CEF-EE Program proposed by PSE&G, the interests of the Market Participants will be directly and substantially affected.

6. Specifically, as third-party suppliers, Direct Energy, NRG and Just Energy have a substantial and direct interest in a number of issues concerning PSE&G's proposal to recover costs of a Clean Energy Future -- Energy Efficiency Program. Likewise, as a market leader in distributed energy solutions, Centrica Business Solutions has a substantial and direct interest in several issues regarding PSE&G proposal to use ratepayer funds to support programs that it is offering in the private market. These issues include PSEG's proposals which would allow it to do the following:

- Utilize its monopoly status as a public utility and rely on ratepayer funds to subsidize the deployment and installation of smart energy thermostats, appliances, lighting, and other equipment, which are already being provided through a mature private market;
- Offer customers an up-front rebate on HVAC, smart thermostats, appliances, lighting, and other equipment, using funds collected from its ratepayers, thereby placing other vendors at a competitive disadvantage;
- Replace the need for electric and natural gas infrastructure by designing a plan to achieve desired demand reductions within targeted zones without initiating a competitive process to meet demand reductions at lowest cost, and using innovative approaches designed by the market;
- Capitalize on its public utility monopoly role to promote certain vendors over other competing entities to perform professional installation services;

- Use its public utility bill to finance the products and the installation fees, which gives it an advantage over other entities promoting these products who do not have a direct billing relationship with customers, including Direct Energy, NRG and Just Energy; and
- Capture customer data that is available to the Company in its monopoly role as a public utility and use it to provide value-added services to consumers, including home energy audits, which are more appropriately offered by entities in the competitive market, including Direct Energy, NRG and Just Energy.

7. The Market Participants submit that these issues, among others, should be thoroughly examined in this proceeding.

II. BACKGROUND

8. On September 26, 2018, PSE&G initially filed this matter with the Board along with its Clean Energy Future – Electric Vehicle and Energy Storage (“CEF-EVES”)⁴ and Clean Energy Future – Energy Cloud (“CEF-EC”)⁵ Programs. At the request of the Board, PSE&G filed these three Clean Energy Future Programs separately, with their own petitions and docket numbers. On October 11, 2018, PSE&G filed its Petition with the Board pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1, N.J.S.A. 48:3-98.1, seeking approval for a Clean Energy Future – Energy Efficiency Program.

9. The CEF-EE Program consists of 22 subprograms, including seven residential subprograms, seven commercial and industrial (“C&I”) subprograms, and eight pilot subprograms. Petition at ¶ 14. The total proposed investment for the CEF-EF Program is approximately \$2.5 billion and with a \$283 million expense budget over the proposed 6-year term of the program.

⁴ Docket No. EO18101111

⁵ Docket No. EO18101115.

Petition at ¶ 28. PSE&G proposes to recover and track costs via a new CEF-EE Program component ("CEF-EEC") of the Company's electric and gas Green Programs Recovery Charge ("GPRC"), which would be filed annually after the proposed initial period. Petition at ¶ 32. In addition, the Company proposes a mechanism for recovering lost revenues. See Petition at ¶¶ 25-26.

10. Along with its Petition, PSE&G filed the following Direct Testimonies in support thereof: Karen Reif ("Attachment 1"); Stephen Swetz ("Attachment 2"); and Daniel Hansen ("Attachment 3").

11. The Direct Testimony of Karen Reif describes the 22 CEF-EE subprograms as follows:

- **Residential Efficient Products:** PSE&G proposes to provide rebates and on-bill repayment for HVAC, smart thermostats, appliances, lighting, and other equipment.
- **Residential Existing Homes:** PSE&G proposes to provide Rebates and on-bill repayment for energy audit, direct install of efficient equipment, and broader weatherization / appliance replacement services
- **Residential Behavioral:** PSE&G proposes to provide data analytics, home energy reports, and online energy audits.
- **Residential K-12 Education:** PSE&G proposes to provide curriculum to teach energy efficiency and a take-home kit with efficient products.
- **Residential New Construction:** PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.

- **Residential Multi-Family:** PSE&G proposes to provide energy audit and direct install of efficient equipment at no charge to tenants.
- **Residential Income Eligible:** PSE&G proposes to provide energy audit, direct install of efficient equipment, and broader weatherization/appliance replacement services at no charge.
- **C&I Perspective:** PSE&G proposes to provide rebates and on-bill repayment for HVAC, lighting, motors & drives, refrigeration, water heaters, air compressors, and food service equipment.
- **C&I Custom:** PSE&G proposes to provide custom incentives for large energy efficiency projects, including on-bill repayment.
- **C&I Small Non-Residential Efficiency:** PSEG proposes to provide rebates and on-bill repayment for direct-installed EE measures to small non-residential customers of lighting, controls, refrigeration, heating and air conditioning upgrades, etc.
- **C&I New Construction:** PSE&G proposes to provide rebates to builders and owners for new construction meeting energy efficiency standards.
- **C&I Energy Management:** PSE&G proposes to provide retro-commissioning and strategic energy management: optimizing existing systems with little to no equipment upgrades.
- **C&I Engineered Solutions:** PSE&G proposes to provide whole-building engineered energy saving solutions to hospitals, school districts, universities, municipalities, apartment buildings and other non-profit public entities.

- **C&I Streetlight:** PSE&G proposes to provide replacement of HPS and LED luminaires and smart cities pilot.
- **Emerging Technologies & Approaches:** PSE&G proposes to provide funding and support to identify, demonstrate, and deploy the next generation of energy efficiency technologies.
- **Energy Efficiency as a Service Pilot:** PSE&G proposes to provide monthly service contracts, incentives, and extensive guidance on energy efficient building equipment and software.
- **Smart Homes Pilot:** PSE&G proposes to provide automated and personalized savings measures using an ecosystem of energy efficient devices and technologies working in coordination.
- **Non-Wires Alternative Pilot:** PSE&G proposes to defer or replace the need for electric infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- **Non-Pipes Solution Pilot:** PSE&G proposes to defer or replace the need for gas infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources.
- **Volt Var Pilot:** PSE&G proposes to use smart-grid technology to automate control of the electric power distribution grid to reduce energy consumption, peak demand, system losses and enable more solar.
- **Business Energy Reports Pilot:** PSE&G proposes to use data analytics, home energy reports and online energy audits for businesses.

- **Building Operator Certification Pilot:** PSE&G proposes to provide a training program for building operations staff responsible for energy-using equipment.

Attachment 1 at 6-9.

12. The Direct Testimony of Stephen Swetz describes the revenue requirement methodologies, cost recovery mechanisms, and provides a bill impact analysis for the EEF-EE Program.

13. The Direct Testimony of Daniel Hansen focuses on PSE&G's Green Enabling Mechanism ("GEM") proposal, which Mr. Hansen said is intended to remove the disincentive to promote conservation and energy efficiency that PSE&G faces because of its retail distribution rate designs. Attachment 3 at 1-2.

14. By Order adopted on October 29, 2018, the Board determined that the Petition should be retained by the Board for hearing and designated Commissioner Dianne Solomon as the presiding officer. The Board further established November 16, 2018 as the date by which entities seeking to intervene or participate must file the appropriate application.⁶ The Order went into effect November 8, 2018.

III. APPLICABLE LEGAL STANDARDS

15. Under N.J.A.C. 1:1-16.1, any person or entity who will be substantially and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

16. In ruling on a motion to intervene, the presiding officer "shall take into consideration the nature and extent of the movant's interest in the outcome of the case, whether or not 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, the prospect of confusion or undue delay arising from

⁶ The Motion to Intervene of Direct Energy and Centrica Business Solutions was filed on November 16, 2018.

the movant's inclusion, and other appropriate matters." N.J.A.C. 1:1-16.3. *See, e.g., In the Matter of the Petition of Public Service Electric and Gas Company Offering an Energy Stimulus Program*, Docket No. EO09010058 (Order Granting Intervention and Admission Pro Hac Vice dated March 27, 2009).

IV. ARGUMENT

17. This Supplemental Motion to Intervene should be granted because the interests of the Market Participants will be substantially and directed affected by the outcome of this proceeding and these interests are sufficiently different from those of any party so as to add measurably and constructively to the scope of the case.

18. This Supplemental Motion is timely and will not delay or otherwise disrupt the adjudication of this proceeding. The Market Participants submit that the addition of NRG and Just Energy is not untimely, as they are seeking to join in the Intervention timely filed by Direct Energy and Centrica Business Solutions on November 16, 2018.⁷ Nevertheless, late filed Motions to Intervene are traditionally granted if the intervenor's interest is sufficiently different so as to add measurably and constructively to the scope of the case and if the late-filed intervention will not cause confusion or undue delay. *See* N.J.A.C. 1:1-16.3. Even if the Supplemental Motion to Intervene of NRG and Just Energy is determined to be untimely, their intervention should, nonetheless, be granted, since the Supplemental Motion: (i) raises no new or different issues; (ii) does not expand the number of parties; (iii) does not require any changes to the procedural schedule; (iv) does not change any arguments raised by PSE&G in its Opposition Letter or the Letter in Response filed by Direct Energy and Centrica Business Solutions; and (v) would allow

⁷ Also, the Market Participants note that a motion for leave to intervene may be filed any time after a case is initiated. N.J.A.C. 1:1-16.2.

the Board to hear, through the single voice the Market Participants, the perspectives of additional companies in the energy market with unique business models, product and service offerings and experiences. *See In the Matter of the Verified Petition of Jersey Central Power & Light Company and Mid-Atlantic Interstate Transmission, LLC, et al.*, Docket No. EM15060733, et al. (Order dated August 15, 2016) (late intervention granted based on representation that party would take the record “as is” and the party’s expertise would contribute to the development of a full and complete record).

19. Fundamental fairness and due process considerations require that the Market Participants be afforded an opportunity to fully participate as an intervenor in this proceeding, due to their substantial and direct interests in the outcome of this proceeding and the proposals of PSE&G to use its monopoly status and ratepayer funds to gain a competitive advantage over other market participants.

20. While PSE&G has described itself as being uniquely positioned to offer the products and services proposed, a mature private market is already available for consumers to purchase these products and services.

21. Direct Energy and its affiliated Connected Home division offer Hive products in the direct to consumer market, as well as through partners such as retail energy providers, which include Hive Active Thermostat™, Hive Active Light™ bulbs, Hive Active Plug™ and Hive Window and Door Sensor. With Hive, consumers can control their heating and cooling, lights, plugs and sensors through a mobile application.

22. In addition, Direct Energy has a family of brands, including: (i) Mister Sparky, which designs, installs, services and repairs electrical systems and parts; (ii) Airtron, which offers HVAC solutions including new installations; and (iii) One-Hour Heating and Air Conditioning,

which offers installation, repair, and maintenance for heating, ventilation and air conditioning systems. Direct Energy also offers home energy audits, using customer data to perform analytics and offer recommendations on how customers can reduce their overall energy consumption.

23. NRG's Business Solutions affiliates provide end use customers with a variety of services aimed at reducing costs, improving reliability, increasing access to renewable resources, managing overall customer energy needs by reducing capacity obligations, improving generation operations, and offering mobile charging options. NRG's technology based solutions include asset-backed demand response, efficiency assessments, backup generation, mobile NRG Go Stations and Street Charge®. For customers who like the idea of renewables but need a guiding hand, NRG's Renewables team finds solutions that overcome real-world constraints in cost-effective, low investment ways. Customers who need to monitor their energy usage – and spending – can employ NRG's demand side management program to manage rising capacity costs using short term strategies that foster long term savings. Customers can take advantage of real-time interval metering with access to an energy usage dashboard, behind the meter generator installations, as well as retrofitting existing generators for environmental compliance in order to participate in demand response programs.

24. On the residential side, NRG and its retail affiliates offer energy usage tools and energy savings products directly to consumers which include: electricity plans with Nest Thermostats and Google Home devices that include Google Assistant – enabling customers to monitor their energy usage and manage their Reliant⁸ accounts. NRG's retail companies also provide home energy audits and offer account usage applications that allow customers to track their usage and see estimates of final bills, text-on-demand usage alerts, and weekly summary

⁸ Reliant is an NRG retail affiliate serving customers in Texas.

emails. NRG also provides AC and Heating Services and Repair, backup generation, and air filter services to reduce energy consumption. NRG tests the latest technologies for residential applications in its Smart House located in Houston Texas.

25. Just Energy has invested substantially in developing partnerships with Retailers in New Jersey, including Sam's Clubs, Sears and Kmart, among others, and is actively engaged in negotiations to expand that channel. The proposed Residential Efficient Products Subprogram explicitly seeks to work with the same Retailers that Just Energy and other Third Party Suppliers are partnering with, in direct competition to the competitive marketplace. Just Energy's Perks Loyalty Rewards program provides customers with the ability to redeem Perks Points for an array of Energy Efficient products for their homes. Many New Jersey residents have benefitted from this program, which would be substantially undermined by PSE&G's proposal. Just Energy Advanced Solutions provides Commercial and Industrial customers with an array of energy saving services including energy audits, LED retrofits, cloud-based HVAC monitoring and control solutions and other customized solutions to reduce their consumption.

26. Centrica Business Solutions integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management capabilities. The energy solutions integrated by Centrica Business Solutions include solar, combined heat and power, energy efficiency, energy insight, demand response, power generation and energy storage. Centrica Business Solutions provides end-to-end energy services across design, manufacture, financing, installation and maintenance. Offering innovative distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

27. If the BPU approves the sub-programs proposed by PSE&G, along with the cost recovery which is sought from ratepayers, PSE&G would be utilizing its monopoly status as a regulated public utility to directly compete with services that are available through the private market, which would adversely affect the Market Participants.

28. Similarly, BPU approval of PSE&G's proposal to offer customers an up-front rebate on HVAC, smart thermostats, appliances, lighting, and other equipment, which would be funded through ratepayer dollars, would place other vendors, including the Market Participants, at a competitive disadvantage.

29. Further, endorsement by BPU of PSE&G's proposal to design a plan to achieve desired demand reductions within targeted zones may place suppliers, including the Market Participants, at a competitive disadvantage if PSE&G is not required to select suppliers through a competitive process to meet demand reductions and to use technology designed by the market.

30. In addition, approving PSE&G's proposal to use its status as a public utility to promote certain installation services would provide those vendors with a competitive advantage over other entities, including the Market Participants.

31. Moreover, allowing PSE&G to use its public utility bill to finance the products and the installation fees would place Direct Energy, NRG and Just Energy at a competitive disadvantage since they do not have a direct billing relationship with customers.

32. Finally, permitting PSE&G to capture customer data that is available to the Company in its public utility role and use it to provide value-added services to consumers, including home energy audits, would adversely affect other market participants, including Direct Energy, NRG and Just Energy, particularly when such services are more appropriately offered by the market. The Market Participants have a concern about the potential ability of PSE&G to share

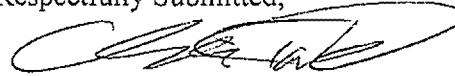
this data with preferred vendors to the exclusion of other market participants, without any authorization or other privacy and security protocols in place.

33. For these reasons, it is critical that the Market Participants be granted intervention so that they can adequately guard against being placed at a competitive disadvantage relative to the regulated public utility in the provision of products and services to customers that are already flourishing in the private market. Given the Market Participants' active participation in offering these products and services, their interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case.

III. CONCLUSION

On the basis of the foregoing, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, Gateway Energy Services Corporation, NJR Retail Services Company, NRG Energy, Inc., Just Energy Group Inc. and Centrica Business Solutions respectfully request that the Office of Administrative Law grant this Supplemental Motion to Intervene so that the Market Participants may have full party status as an intervenor in this proceeding. The Market Participants have interests in this proceeding that will be substantially and directed affected by the outcome of this proceeding, their interests are sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, and this Motion is timely and will not delay or otherwise disrupt the adjudication of this proceeding.

Respectfully Submitted,



Christopher E. Torkelson, Esq.
NJ Attorney ID No. 022961996
Eckert Seamans Cherin & Mellott, LLC
P.O. Box 5404
Princeton, NJ 08543
609-989-5059
ctorkelson@eckertseamans.com

Karen O. Moury, Esq. (pro hac vice pending)
PA Attorney ID No. 36879
Kristine Marsilio, Esq. (pro hac vice pending)
PA Attorney ID No. 316479
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000
kmoury@eckertseamans.com
kmarsilio@eckertseamans.com
Attorneys for Direct Energy, NRG Energy, Inc.,
Just Energy Group Inc., and Centrica Business
Solutions ("Market Participants")

Dated: December 6, 2018

CERTIFICATION OF FILING AND SERVICE

The undersigned hereby certifies that on the date set forth below an original and ten copies of the Supplemental Motion to Intervene was sent for filing via FedEx to the State of New Jersey, Board of Public Utilities as follows:

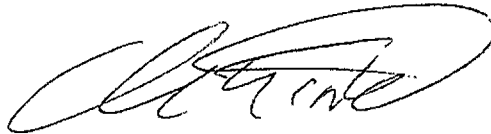
Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P. O. Box 350
Trenton, New Jersey 08625-0350

and that two copies of each of the aforementioned documents were served via email and FedEx upon counsel of record as follows:

Stefanie A. Brand, Esq.
The Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, New Jersey 08625

Matthew M. Weissman, Esq.
Gen. Regulatory Counsel – Rates
PSEG Service Co.
80 Park Plaza T5
Newark, New Jersey 07102

and that copies of each of the aforementioned documents were served via electronic mail to the parties identified on the attached service list.



Christopher E. Torkelson

Dated: December 6, 2018