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FORWARD  
CASE MANAGEMENT  
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**PSEG**

Services Corporation

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

May 17, 2019

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 No. EO18101112 and GO18101113

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BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

Aida Camacho-Welch, Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625

Dear Secretary Camacho-Welch:

Enclosed please find the original and ten copies of initial brief of Public Service Electric and Gas Company ("PSE&G") in the above-referenced matter.

Thank you for your consideration and review.

Respectfully submitted,

*Matthew Weissman*

By: \_\_\_\_\_

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11/21/2018

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STATE OF NEW JERSEY  
NEW JERSEY BOARD OF PUBLIC UTILITIES  
BEFORE HONORABLE DIANNE SOLOMON, COMMISSIONER

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

IN THE MATTER OF THE PETITION OF :	
PUBLIC SERVICE ELECTRIC AND GAS :	
COMPANY FOR APPROVAL OF ITS :	Administrative
CLEAN ENERGY FUTURE-ENERGY :	
EFFICIENCY ("CEF-EE") PROGRAM ON A :	BPU DOCKET NOS. GO18101112 and
REGULATED BASIS :	EO18101113

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**INITIAL BRIEF ON BEHALF OF PETITIONER  
PUBLIC SERVICE ELECTRIC AND GAS COMPANY**

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On the Brief

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### **PRELIMINARY STATEMENT**

The State of New Jersey is at a crucial moment in its energy history. Recognizing that New Jersey was falling well behind the rest of the country in terms of energy efficiency, the State's policymakers passed the Clean Energy Act ("CEA") in 2018. The CEA contains significant energy consumption reduction targets that requiring a substantial investment to achieve far more than the level of energy savings that the State and utilities are achieving today. It places the onus on the State's electric and gas utilities to achieve those significant saving increases, calling for large-scale energy efficiency initiatives far beyond what the State or utilities have undertaken to date.

Petitioner Public Service Electric and Gas Company ("PSE&G" or "Company") responded to that call to action. On October 11, 2018, PSE&G filed for New Jersey Board of Public Utilities ("BPU" or "Board") approval of its Clean Energy Future – Energy Efficiency Program ("CEF-EE Program" or "Program"). This comprehensive Program contains several important, and undisputed, benefits for the State and its residents. First, and foremost, it will reduce participating customers' bills by \$5.7 billion through the implementation of a wide variety of energy efficiency measures. Its emphasis is on low-income customers and other difficult to reach customer segments, resulting in savings for all customers across the State's socioeconomic spectrum. Second, the CEF-EE Program will reduce harmful greenhouse gas emissions and put New Jersey on track to meets is emissions reduction goals. Third, it will help grow the "green economy" right here in New Jersey, including private sector, energy efficiency businesses.

The record is also clear that the CEF-EE Program is cost-effective. Even taking into account certain recommendations from New Jersey Division of Rate Counsel's ("Rate Counsel") witnesses regarding the cost-benefit analyses, the Company's expert has concluded that the Program's benefits far outweigh its costs. Even Rate Counsel's primary witness on cost benefit, while performing his own analysis that does not conform to standard cost-benefit practices or with the BPU's requirements, concludes that PSE&G's program is cost effective. In fact, he finds that CEF-EE benefits are 50% greater than costs.

Rate Counsel -- the only party to this proceeding that offered testimony in opposition to the CEF-EE Program -- offers no substantive challenge to the Program design, the benefits it will provide to the State or its residents, or its cost-effectiveness. Rather, Rate Counsel's opposition is based on an erroneous position designed to delay the realization of the Program's benefits, and keep New Jersey toward the bottom looking up at other states when it comes to energy efficiency. More specifically, Rate Counsel claims that the CEF-EE filing is premature in light of the energy efficiency initiatives that the Board is undertaking -- and nearing completion -- under the Act, as well as the 2019 Energy Master Plan. As set forth in detail below, however, this is the right time for PSE&G to partner with the Board Staff, Rate Counsel, and other interested stakeholders to develop and execute the transition to CEF-EE, and to begin implementing the Program. Consistent with the momentum in the State presently supporting energy efficiency, PSE&G has presented a program that is well-designed (which is not contested), will generate tremendous benefits to the State and its residents, and is cost effective. For those reasons, the CEF-EE Program enjoys broad and diverse stakeholder support, including from government officials; the leading environmental advocates in the country and in the State;



large public-interest customers such as hospitals and universities; and the business community. Further delay would not be sensible and would only set New Jersey back.

A key to the CEF-EE Program being successful for customers will be the important function that the Board's Office of Clean Energy ("OCE") will have going forward. Under PSE&G's proposal, the OCE will shift from administering a limited number of programs to taking on more traditional regulatory functions such as governance, oversight, auditing, and policy setting on a much wider array of more extensive programs.

Moreover, the utilities, which are responsible for delivering the significant energy savings under the Act, should be made whole for the reduction in revenue that naturally occurs when less energy is used. As discussed later, the CEA specifically provides for recovery of such lost revenues. PSE&G's proposed Green Enabling Mechanism ("GEM") addresses this issue by eliminating the utility disincentive to pursue the most effective energy efficiency measures. As the hearing record demonstrates, states that have achieved the greatest amount of energy efficiency savings, consistent with the targets set forth in the Act, are those that have implemented revenue decoupling mechanisms similar to the GEM. New Jersey should follow suit and approve the GEM.

Accordingly, and as further set forth below, the BPU should approve the CEF-EE Program, in its entirety.

### **PROCEDURAL HISTORY**

Pursuant to N.J.S.A. 48:3-98.1, on October 11, 2018, PSE&G filed a Petition and supporting documentation in this matter seeking BPU approval to expand its energy efficiency offerings in its service territory, to begin the process of achieving the energy consumption reduction targets in the CEA, and make New Jersey a national leader in energy efficiency.<sup>1</sup> The CEF-EE Program consists of 22 subprograms - - seven focused on residential customers, seven targeted towards commercial and industrial customers, and eight pilot subprograms. The filing also proposes a revenue decoupling mechanism, referred to as the GEM, which would decouple the utility's sales revenue from its customers' energy usage, thereby removing its disincentive to promote energy efficiency measures. Finally, the CEF-EE filing also requests that PSE&G, following a transition period, become the exclusive provider of BPU-regulated energy efficiency programs in its service territory, with the OCE playing a critical role in oversight, standard setting, and policymaking after the transition.

By Order dated October 29, 2018, the Board designated Commissioner Solomon as the Presiding Commissioner. Following Board Staff's determination on November 14, 2018 that the filing was administratively incomplete, PSE&G made a supplemental filing on January 7, 2019. By letter dated January 9, 2019, Board Staff determined that the filing was administratively complete and thereby established the BPU's 180-day review period pursuant to N.J.S.A. 48:3-98.1.

On January 22, 2019, Commissioner Solomon entered a Prehearing Order Setting a Procedural Schedule and Ruling on Motions to Participate and Intervene. The BPU granted intervenor status to three entities: (1) the Eastern Environmental Law Center ("EELC"),

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<sup>1</sup> See N.J.S.A. 48:3-87.9.

representing five environmental advocacy groups;<sup>2</sup> (2) the Keystone Energy Efficiency Alliance, a nonprofit corporation consisting of approximately 50 energy efficiency businesses working in New Jersey and Pennsylvania; and (3) the New Jersey Large Energy Users Coalition (“NJLEUC”).<sup>3</sup> The following 12 entities were granted participant status: (1) New Jersey Natural Gas (“NJNG”); (2) Atlantic City Electric (“ACE”); (3) Jersey Central Power & Light; (4) Rockland Electric Company (“RECO”); (5) Tendril Network Inc.; (6) Direct Energy/Centrica Business Solutions/NRG/Just Energy; (7) Enel X; (8) MaGrann Associates; (9) Sunrun Inc.; (10) Google; (11) Lime Energy; and (12) Philips Lighting/Signify.

Public notice of the filing was provided and six public hearings were held on the following dates in PSE&G’s service territory: two hearings on March 13, 2019 (New Brunswick); two hearings on March 18, 2019 (Mt. Holly); and two hearings on March 21, 2019 (Hackensack). As discussed in greater detail below, the CEF-EE Program received widespread support at the public hearings from a diverse group of nearly 60 speakers representing government, environmental advocates, customers (e.g., hospitals and universities), and the business community.

Approximately 235 discovery questions were served by Board Staff, Rate Counsel, and EELC, to which the Company responded. Discovery conferences were held on March 6 and 14, 2019. Settlement conferences were held on March 25, 2019 and April 9, 2019.

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<sup>2</sup> Environment New Jersey, Sierra Club, Environmental Defense Fund, New Jersey League of Conservation Voters, and Natural Resources Defense Council.

<sup>3</sup> Commissioner Solomon’s January 22, 2019 Order declined to rule on KEEA’s motion to intervene because it was not filed by an attorney authorized to practice law in New Jersey. After KEEA retained New Jersey counsel, Commissioner Solomon granted it intervenor status by Order dated February 27, 2019.

Rate Counsel submitted the pre-filed direct testimonies of Ezra Hausman, PhD., David E. Dismukes, PhD., and Dante Mugrace. EELC submitted the pre-filed direct testimony of Amanda Levin. Pre-filed rebuttal testimony was submitted by the following witnesses: Karen Reif, Stephen Swetz, Isaac Gabel-Frank, and Daniel Hansen (for PSE&G); Dr. Dismukes (for Rate Counsel); and Ms. Levin (for EELC).

Evidentiary hearings were conducted before Commissioner Solomon on May 1 and 2, 2019, at which the parties introduced their respective pre-filed testimonies and exhibits, all discovery responses were moved into evidence, Rate Counsel presented oral sur-rebuttal testimony from witnesses Hausman, Dismukes, and Mugrace, and witnesses were cross-examined.<sup>4</sup>

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<sup>4</sup> The transcript from the first day of evidentiary hearings is referred to in the citations to the record herein using "1T", followed by the applicable page number ("p.") and line ("l."). The transcript from the second day of evidentiary hearings is cited herein using "2T", followed by the page number and line.

### **STATEMENT OF FACTS**

1. PSE&G is a public utility in the State of New Jersey that provides service to approximately 2.2 million electric and 1.8 million gas customers in an area having a population of approximately six million people, and which extends from the Hudson River opposite New York City, southwest to the Delaware River at Trenton and south to Camden, New Jersey.<sup>5</sup>

2. PSE&G has implemented BPU-approved energy efficiency programs pursuant to N.J.S.A. 48:3-98.1 since 2008 with the approval of its Carbon Abatement Program. The BPU also approved PSE&G energy efficiency programs in 2009 (the Energy Efficiency Economic (“EEE”) Stimulus Program), 2011 (“EEE Ext. I”), 2015 (“EEE Ext. II”), and 2017 (“EE 2017”).<sup>6</sup>

3. Through this filing, PSE&G seeks to significantly expand its energy efficiency deployment in its service territory beyond current levels in order for the State to meet its clean energy objectives. More specifically, on May 23, 2018, Governor Murphy signed the CEA into law.<sup>7</sup> The CEA requires the State’s electric and gas public utilities to reduce customers’ electric and gas energy consumption by a minimum of 2% (electric) and 0.75% (gas).<sup>8</sup>

4. This expansion of PSE&G’s energy efficiency offerings to meet the CEA’s savings targets is necessary because in Fiscal Year 2018, the OCE achieved 0.36% electric savings, and 0.16% gas savings, as a percentage of retail sales.<sup>9</sup>

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<sup>5</sup> PS-1, Petition, para. 1.

<sup>6</sup> *Id.* at para. 6.

<sup>7</sup> Codified, in relevant part, at N.J.S.A. 48:3-87.9.

<sup>8</sup> See N.J.S.A. 48:3-87.9(a).

<sup>9</sup> *New Jersey’s Clean Energy Program FY19-FY22 Strategic Plan*, pp. 10-11 (accessible at <http://njcleanenergy.com/files/file/Library/Compliance%20Filings/NJCEP%20FY19-FY22%20Strategic%20Plan.pdf>).

5. The CEF-EE Program consists of 22 subprograms, including seven residential subprograms, seven commercial and industrial (“C&I”) subprograms, and eight pilot subprograms.<sup>10</sup>

6. The CEF-EE residential subprograms will, among other initiatives, promote the purchase and installation of high-efficiency appliances through rebates and on-bill incentives; provide customers with energy audits and installation of energy efficiency measures; educate residential builders and developers on energy efficient home design and construction; and educate kindergarten through 12<sup>th</sup> grade students on energy efficiency.<sup>11</sup>

7. The CEF-EE C&I subprograms will, among other activities, promote the installation of energy efficient equipment; advance efficient design and equipment installation for new buildings; optimize energy consumption in existing buildings; and upgrade all of PSE&G’s existing high-pressure sodium cobra head streetlights to more efficient light emitting diode (“LED”) streetlights.<sup>12</sup>

8. The CEF-EE pilot subprograms will consist of PSE&G implementing and managing select, highly advanced approaches to energy efficiency that, after the pilot phase ends, may support future energy efficiency programs in New Jersey.<sup>13</sup>

9. The CEF-EE Program emphasizes the hardest to reach sectors in energy efficiency, specifically, low income customers, multi-family residences, small businesses, and local governments. For example, the Residential Income Eligible subprogram will provide free direct installation of energy efficient technologies and weatherization services to qualifying

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<sup>10</sup> PS-1, Petition, p. 6, para. 14.

<sup>11</sup> *Id.* at p. 7, para. 16.

<sup>12</sup> *Id.* at pp. 7-8, para. 16.

<sup>13</sup> *Id.* at p. 6, para. 14.

PSE&G customers with limited income.<sup>14</sup> The C&I Engineered Solutions subprogram proposes to provide tailored energy efficiency assistance to public service entities, such as municipalities, universities, schools, hospitals, non-profit entities, and multi-family facilities.<sup>15</sup>

10. The only critique Rate Counsel offers of the CEF-EE Program design are contained in two sentences of Dr. Hausman's 39-page direct testimony, wherein he criticizes the Smart Cities pilot related to the C&I Streetlight Subprogram.<sup>16</sup> No other party to this proceeding submitted testimony opposing the CEF-EE Program.

11. It is undisputed that the CEF-EE Program will create significant benefits for New Jersey and its residents. The Program is expected to reduce energy consumption by approximately 40.6 billion kWh and 675 million therms, resulting in a net reduction in participating customers' energy bills by \$5.7 billion over the life of the energy efficiency measures.<sup>17</sup>

12. The CEF-EE Program is expected to reduce carbon dioxide emissions by 24 million tons; sulfur dioxide emissions by 43,000 tons; and nitrogen oxide emissions by 18,000 tons over the life of the measures installed.<sup>18</sup>

13. The PSE&G CEF-EE Program is expected to increase employment through the creation of approximately 30,000 direct, indirect, and induced job years.<sup>19</sup>

14. It is undisputed that the CEF-EE Program is cost effective. PSE&G retained Isaac Gabel-Frank of Gabel Associates to complete a cost-benefit analysis and analyze the cost-

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<sup>14</sup> Schedule KR-CEF-EE-2 Program Plan, p. 30 (attached to P-2, Reif direct testimony).

<sup>15</sup> *Id.* at p. 56.

<sup>16</sup> RC-1, Hausman direct testimony, p. 16, l. 5-9.

<sup>17</sup> PS-1 Petition, p. 10, para. 20.

<sup>18</sup> *Id.* at p. 11, para. 22.

<sup>19</sup> *Id.* at p. 11, para. 23.



effectiveness of the Program.<sup>20</sup> Even after making alterations to his initial cost-benefit analysis in response to Rate Counsel's direct testimony, Mr. Gabel-Frank reached the following conclusions using the five cost-benefit tests required by the Board's minimum filing requirements:<sup>21</sup>

	SCT	TRC	PCT	PAC	RIM <sup>22</sup>
Residential Programs	4.3	1.1	12.2	1.4	0.7
C&I Programs	4.5	1.1	5.3	1.5	1.0
Low Income Programs	1.8	0.4	n/a	0.4	0.3
<b>Total Portfolio</b>	<b>4.3</b>	<b>1.0</b>	<b>6.7</b>	<b>1.4</b>	<b>0.9</b>

15. As the results shown above demonstrate, the CEF-EE filing screens as cost effective in the SCT, TRC, PCT, and PAC tests. The results of each of these tests illustrate that the CEF-EE Program will generate benefits that exceed costs, would be a good investment, and is beneficial to the state.<sup>23</sup> The RIM test shows acceptable value from a ratepayer perspective.<sup>24</sup>

16. Rate Counsel witness Dismukes also concludes that the CEF-EE Program is cost effective.<sup>25</sup> In fact, Dr. Dismukes concludes that CEF-EE benefits are 50 percent greater than costs.<sup>26</sup>

17. The CEF-EE Program will have a lost revenue impact on PSE&G through 2024 of \$166 million.<sup>27</sup> These lost revenues are caused by the programs PSE&G proposes to manage

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<sup>20</sup> *Id.* at p. 8, para. 17.

<sup>21</sup> These tests are: (1) the Total Resource Cost ("TRC"); (2) the Participant Cost test ("PCT"); (3) the Program Administrator Cost test ("PAC"); (4) the Ratepayer Impact Measure test ("RIM"); and (5) the Societal Cost test ("SCT").

<sup>22</sup> PS-7, Gabel-Frank rebuttal testimony, p. 31, Table 3.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at p. 32, l. 1-4.

<sup>25</sup> RC-7, Dismukes direct testimony, p. 24, l. 19 to p. 25, l. 7.

<sup>26</sup> DED-4, Alternative Cost-Benefit Analysis.xlsx, provided in response to PS-RC-1.

<sup>27</sup> PSE&G response to RCR-POL-12; PS-6, Swetz rebuttal testimony, p. 9, l. 8 to p. 10, l. 2.

to achieve the energy reductions it is obligated to achieve by the CEA. If PSE&G did not recover these lost revenues, its Return on Equity ("ROE") on this investment would be approximately 4%, compared to its allowed ROE of 9.6%.<sup>28</sup>

18. The GEM is designed to remove the disincentive to promote conservation and energy efficiency that PSE&G faces because of its retail rate designs. Specifically, PSE&G recovers its distribution costs through a combination of fixed service charges (*i.e.*, \$/month), volumetric energy rates (*i.e.*, \$/kWh or \$/Therm), and demand charges (*i.e.*, \$/kW or \$/Demand Therm). These rates are set periodically, typically in a rate case, to collect a specific amount of revenue based on an agreed-upon test year number of customers and weather-normalized sales and/or demands from those customers. Actual revenues recorded by PSE&G will vary as the number of customers and their usage varies from the values used to set rates. When customers reduce their energy use or demand, PSE&G experiences a reduction in revenue that is not matched by a reduction in distribution costs. Consequently, PSE&G currently has a disincentive to encourage customers to reduce usage.<sup>29</sup>

19. The GEM would remove this disincentive by creating a deferral tracking account in which the difference between allowed and actual distribution revenue is recorded. Allowed revenue is determined from PSE&G's 2018 base rate case proceeding (BPU docket numbers ER18010029 and GR18010030) and is reflective of each customer class's allocated cost of service. Allowed revenue will be adjusted when base rates are updated (*e.g.*, rate cases, Infrastructure Investment Program roll-ins). The GEM will establish the monthly amount of total allowed revenue ("GEM revenue") by multiplying the per-customer allowed revenue by the

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<sup>28</sup> PSE&G response to RCR-POL-12; PS-6, Swetz rebuttal testimony, p. 10, l. 13-15.

<sup>29</sup> PS-8, Hansen direct testimony, p. 1, l. 16 to p. 2, l. 10.

actual number of customers served in the current month. The difference between the GEM revenue and actual distribution revenue from customers will be booked to a GEM deferral account. Over-recovery of allowed revenue (when GEM revenues are lower than actual revenues) results in a rate decrease in a future period. Conversely, under-recovery of allowed revenues (when GEM revenues are higher than actual revenues) results in a rate increase in a future period. Through these rate adjustments, the GEM would make PSE&G indifferent to its customers' consumption decisions.<sup>30</sup>

20. The GEM adjusts revenues on a per customer basis. It does not impact the Company's incentive to control costs.<sup>31</sup> The GEM also does not guarantee all revenues given that there is an earnings test, and PSE&G still bears the economic risk of reduced revenues when its customer count declines.<sup>32</sup>

21. Revenue decoupling is not unique, whether in the country or in New Jersey. In 2006, the BPU approved a revenue decoupling mechanism called the Conservation Incentive Program ("CIP") for NJNG and South Jersey Gas ("SJG").<sup>33</sup> Though initially a pilot program, the CIP was approved for use indefinitely, with some modifications, in 2014.<sup>34</sup>

22. The Natural Resources Defense Council ("NRDC") found that in 2013, 29 electric utilities were decoupled. As of December 2018, 42 electric utilities are now decoupled (39 investor-owned and 3 public utilities) across 16 states and Washington D.C. This is a 45 percent

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<sup>30</sup> *Id.* at p. 2, l. 11 to p. 3, l. 2.

<sup>31</sup> *Id.* at p. 5, l. 7-11; 2T, p. 14, l. 21-25.

<sup>32</sup> 1T, p. 47, l. 3-18.

<sup>33</sup> BPU Docket Nos. GR05121019 and GR05121020.

<sup>34</sup> BPU Docket No. GR13030185.

increase since the end of 2013.<sup>35</sup> Based on data supplied by Rate Counsel witness Dismukes, 40 percent of electric customers within investor-owned utility service territories are served by utilities that have decoupling, and 47 percent of gas customers are served by utilities that have decoupling.<sup>36</sup> Out of the 26 states with an energy efficiency resource standard, 21 have decoupling for at least one utility. This means that 81 percent of states with an energy efficiency resource standard have general decoupling for at least one utility (including New Jersey with the CIP), indicating this is the standard throughout the country.<sup>37</sup>

23. According to 2017 figures, only three states in the country -- Vermont, Rhode Island, and Massachusetts -- achieve electric savings of at least 2%, which is the target set forth in the CEA. All three states have adopted revenue decoupling. In fact, the top nine states in terms of electric savings, and 17 of the top 20 states (85%), have approved revenue decoupling.<sup>38</sup>

24. According to 2017 data, six states achieve gas savings of at least 0.75%, which is the target set forth in the CEA. All six states have adopted revenue decoupling. Indeed, 13 of the top 16 states (81%) in terms of gas savings have adopted revenue decoupling.<sup>39</sup>

25. It is undisputed that the Company's proposed amortization period of 15 years for the energy efficiency investments in CEF-EE is based on the measures' useful lives, and represents the best matching of program benefits to costs.<sup>40</sup>

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<sup>35</sup> EELC-2, Levin rebuttal testimony, p. 9, l. 5-11.

<sup>36</sup> PS-8, Hansen rebuttal testimony, p. 12, l. 19 to p. 13, l. 2; Dr. Dismukes' response to PS-RC-DED-2.

<sup>37</sup> PS-8, Hansen rebuttal testimony, p. 13, l. 3 to 8.

<sup>38</sup> Schedule DGH-1 attached to Hansen's rebuttal testimony (PS-8).

<sup>39</sup> Schedule DGH-2 attached to Hansen's rebuttal testimony (PS-8).

<sup>40</sup> PS-2, Reif direct testimony, p. 17, l. 10-15; PS-6, Swetz rebuttal testimony, p. 4, l. 1 to p. 5, l. 2.

26. Compared to the Company's proposed amortization period, Rate Counsel's proposed seven-year amortization period would result in meaningfully higher customer bills, including those for low-income customers, through 2029.<sup>41</sup>

27. When accounting for net present value, the difference between the revenue requirements of a seven-year amortization period and a 15-year amortization period is approximately \$1M.<sup>42</sup>

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<sup>41</sup> PS-6, Swetz rebuttal testimony, p. 5, l. 1 to p. 6, l. 14; 1T, p. 269, l. 21 to p. 270, l. 4.

<sup>42</sup> PS-19.

### ARGUMENT

**I. AS RECOMMENDED BY A BROAD GROUP OF STAKEHOLDERS, THE BOARD SHOULD APPROVE THE CEF-EE PROGRAM IN ITS ENTIRETY BECAUSE OF THE UNDISPUTED AND SUBSTANTIAL BENEFITS IT WOULD PROVIDE TO THE STATE AND ITS RESIDENTS**

**A. The Record Demonstrates That The CEF-EE Program Furthers The State's Energy Efficiency Goals And Enjoys Widespread Public Stakeholder Support.**

It is undisputed that the CEF-EE Program will result in significant benefits for the State and its residents, and position New Jersey to be a national leader in energy efficiency. Specifically, it is not contested that the CEF-EE Program will:

- (1) Save customers money by reducing energy consumption by approximately 40.6 billion kWh and 675 million therms, reducing participating customers' energy bills by \$5.7 billion over the life of the energy efficiency measures. Lower consumption also means lower wholesale electricity prices, which benefits all customers whether they participate in CEF-EE or otherwise;<sup>43</sup>
- (2) Benefit the environment by reducing carbon dioxide emissions by 24 million tons, sulfur dioxide by 43,000 tons, and nitrogen oxide emissions by 18,000 tons; and
- (3) Grow the green economy by increasing employment through the creation of approximately 30,000 job-years and facilitate associated economic activity.<sup>44</sup> These employment opportunities will benefit the Company's trade allies, which will consist of private market installation contractors, developers, plumbers, electricians, builders, retailers, and distributors of other energy efficiency service businesses.<sup>45</sup>

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<sup>43</sup> 1T, p. 216, l. 18 to p. 217, l. 3.

<sup>44</sup> PS-2, Reif direct testimony, p. 4, l. 1 to p. 5, l. 5.

<sup>45</sup> Schedule KR-CEF-EE-2 Program Plan, Attachment 1 to Reif's direct testimony (PS-2), p. 103.

The CEF-EE Program, and the undisputed benefits it will provide, is consistent with the State's energy goals. These energy goals are reflected in the CEA's mandate that utilities reduce their customers' energy usage,<sup>46</sup> as well as the New Jersey Global Warming Response Act's requirement that the State reduce greenhouse gas emissions (with the initial emissions reduction target arriving next year, 2020).<sup>47</sup> The CEF-EE Program benefits outlined above are also consistent with the Administration's upcoming Energy Master Plan ("EMP"), two goals of which are "growing New Jersey's clean energy economy" and "reducing the state's carbon footprint."<sup>48</sup> Moreover, one of the working groups for the new EMP is focused on "Reducing Energy Consumption," which is the cornerstone of the CEF-EE Program.<sup>49</sup>

The undisputed benefits of the CEF-EE Program explain why it has garnered such significant and diverse public support. Nearly 60 speakers voiced support for the Program at the public hearings in March 2019, consisting of elected officials and other government representatives, customers (including medical centers and universities), environmental advocates, and the business community.<sup>50</sup> Facets of the CEF-EE Program that members of the public lauded at the public hearings include, but are not limited to: (1) subprogram design, including its emphasis on low-income customers; (2) the role of PSE&G as program administrator (including comments from entities that have participated in PSE&G's energy efficiency and infrastructure improvement programs in the past); (3) the Program's environmental benefits; (4) the Program's ability to create green jobs; and (5) the GEM.

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<sup>46</sup> N.J.S.A. 48:3-87.9(a).

<sup>47</sup> N.J.S.A. 26:2c-37 *et seq.*

<sup>48</sup> <https://www.nj.gov/emp/energy/>

<sup>49</sup> *Id.*

<sup>50</sup> Attached hereto as Exhibit A is a list of these speakers and their affiliation.



For example, Princeton Mayor Liz Lempert provided the following endorsement of CEF-EE:

I come here today in support of PSE&G's Clean Energy Future – Energy Efficiency proposal. The 22 proposed programs would greatly reduce carbon dioxide and other emissions and would put the state on track to meet its greenhouse gas reduction goals. Specifically, PSE&G proposes to offer residential customers, including low income customers, incentives for energy audits and installation of energy efficiency measures, which would greatly benefit our residents.<sup>51</sup>

Robert Mulcahy of Hackensack Meridian Health noted that PSE&G's current energy efficiency programs have helped the hospital focus its capital on healthcare and create job opportunities.<sup>52</sup> With respect to CEF-EE, Mr. Mulcahy stated: "The current Clean Energy Future Program will help fund energy efficiency, provide savings and create a cleaner and healthier environment for all of New Jersey."<sup>53</sup>

Jennifer Coffey, Executive Director of the Association of New Jersey Environmental Commissions, commented:

This proposal, this initiative by PSE&G, will provide real dollar money to residents, as we heard from Mayor Gusciora of Trenton earlier today. It will provide funding to educate children so that we can build the next generation of environmental leaders and those who are energy efficient and conscious, and it will also provide support and incentives for existing as well as new buildings. We look forward to encouraging our municipalities to engage with this energy initiative moving forward so that we can secure more energy efficient buildings throughout New Jersey.<sup>54</sup>

Lloyd Kass, Senior Vice President at Lime Energy, an energy consulting service, testified:

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<sup>51</sup> 3/13/19, 4:00 p.m. public hearing transcript, p. 26, l. 7-17.

<sup>52</sup> *Id.* at p. 34, l. 19-25.

<sup>53</sup> *Id.* at p. 35, l. 10-13.

<sup>54</sup> 3/18/19, 5:30 p.m. public hearing transcript, p. 48, l. 9-25.

PSE&G's \$2.5 billion Clean Energy Future Program is a no regrets set of solutions that will rapidly put the utility and its customers on a path toward the required energy savings targets [of the CEA]. CEF-EE contains the wide range of subprograms needed for deep market penetration of energy efficiency across all customer classes.

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The most successful programs Lime operates are the ones in which we can white label our offerings, presenting the utility brand on our marketing material, on our ID badges, and even the clothing we wear.

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One of the critical components of the proposal is the Green Enabling Mechanism, which would decouple PSE&G's earnings from the volume of electric and gas delivered. Decoupling is a fundamental component of advancing energy efficiency in all leading jurisdictions.<sup>55</sup>

The widespread public support for the CEF-EE Program extended into the evidentiary hearings. The following eight intervenors or participants in the proceeding gave opening statements in support of CEF-EE, along with the noted endorsements of the Program:

(1) EELC: "[The environmental advocates'] economic interests, environmental interests, and the health of their members who live within PSE&G's service territory would be substantially, specifically, and directly affected by the outcome of the case, and we support the proposal. We support PSE&G's proposal."<sup>56</sup>

(2) KEEA: "We believe that the PSE&G filing represents the best practices taken from across the country of those states who are leaders on energy efficiency, and in particular the Green Enabling Mechanism, which is used in a variety of states. For those reasons and the fact

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<sup>55</sup> 3/21/19, 4:00 p.m. public hearing transcript, p. 52, l. 10-16; p. 53, l. 21-24; p. 54, l. 11-6.

<sup>56</sup> 1T, p. 27, l. 19 to p. 28, l. 4.

that PSE&G [is] applying lessons learned from other jurisdictions, we support the filing in its entirety.”<sup>57</sup>

(3) Google: “Google supports this PSE&G energy efficiency filing and looks forward to the administration of a new thermostat rebate program and the decoupling mechanism that PSE&G styles as the GEM proposal.”<sup>58</sup>

(4) Enel X: “The Company fully supports PSE&G’s position in this matter. The programs proposed by PSE&G are robust and well designed. Based on Enel X’s analysis, the programs will help achieve the State’s energy efficiency goals in a cost-effective manner.”<sup>59</sup>

(5) Philips Lighting/Signify: “As a PSE&G customer, Signify is excited about the prospect of the Clean Energy Future – Energy Efficiency proposal saving participating customers billions of dollars. And, in reviewing PSE&G’s energy efficiency plan, we support its commitment to help low income, small business and local government customers. Included in the proposal is a program to upgrade municipal streetlights from an old technology, high-pressure sodium lamps, to state-of-the-art LED lighting which, when coupled with control systems, will reduce energy consumption by 70% or more. This initiative will make New Jersey municipalities more sustainable while improving the quality of light and increasing public safety for its citizens.”<sup>60</sup>

(6) Lime Energy: “PSE&G’s landmark \$2.5 billion proposal will make great strides toward the required energy savings targets for the utility, and customers. CEF-EE proposes a wide range of subprograms, based on industry best practices, that will induce deep market

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<sup>57</sup> *Id.* p. 30, l. 1-11.

<sup>58</sup> *Id.* at p. 59, l. 17-22.

<sup>59</sup> *Id.* at p. 31, l. 3-10.

<sup>60</sup> *Id.* at p. 38, l. 22 to p. 39, l. 17.

penetration of energy efficiency across all customer classes. PSE&G is in the best position to engage experienced vendors like Lime to engage with customers, innovate, and cost-competitively deliver efficiency services, so that all can share in the benefits of these fitting programs.”<sup>61</sup>

(7) New Jersey Natural Gas: “[I]t is undisputed that PSE&G has presented a broad portfolio of programs designed to meet the aggressive savings targets in the Clean Energy Act. Delaying implementation of this Program will make it significantly more challenging to attain the State’s clean energy goals. For that reason, New Jersey Natural Gas believes the BPU should approve PSE&G’s Program so that the State can begin to reach its energy efficiency mandates.”<sup>62</sup>

(8) Atlantic City Electric: “Atlantic City Electric supports a decoupling mechanism such as the one proposed by PSE&G to remove the disincentive caused by the revenue impact of lost sales as a result of energy efficiency programs. A decoupling mechanism aligns the interest of the utility with customers and the policy initiatives of the Board by breaking the link between increased sales and revenues. Atlantic City Electric also supports a multi-year cost recovery mechanism similar to the PSE&G proposal.”<sup>63</sup>

Even Sunrun, a participant in the proceeding that does not endorse the CEF-EE Program, commented at the evidentiary hearing that it is “encouraged by some of the energy efficiency program concepts proposed by the Company[.]”<sup>64</sup> In particular, Sunrun finds two CEF-EE pilot

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<sup>61</sup> *Id.* at p. 49, l. 8-22.

<sup>62</sup> *Id.* at p. 69, l. 11-22.

<sup>63</sup> *Id.* at p. 58, l. 15 to p. 59, l. 3.

<sup>64</sup> *Id.* at p. 40, l. 24 to p. 41, l. 1.

programs -- Non-Wires Alternative and Smart Homes -- “commendable” for their recognition of solar energy and energy storage.<sup>65</sup>

Tellingly, the CEF-EE filing has been pending before the Board for seven months. PSE&G has answered approximately 235 discovery questions on the Program. The parties conducted two days of evidentiary hearings. Yet Rate Counsel, the only party in the proceeding to submit testimony opposing the Program, only mustered two sentences in Dr. Hausman’s 38-page direct testimony critiquing the CEF-EE Program design, and that criticism focuses on one pilot program within one of the C&I subprograms.<sup>66</sup> Rate Counsel has not challenged the bill reductions, environmental benefits, and job creation that the CEF-EE Program can provide the State and its residents. Indeed, Rate Counsel witness Dismukes at the evidentiary hearing gave the Company “credit” for offering a “very expansive” set of energy efficiency programs.<sup>67</sup>

It is undisputed that the CEF-EE Program will provide significant benefits to the State and its residents. Those benefits brought together a broad and diverse coalition of advocates that, like PSE&G, are seeking to advance the State’s energy goals and make New Jersey a leader in energy efficiency. The BPU should credit those endorsements and approve the CEF-EE Program in its entirety.

**B. PSE&G Is Uniquely Situated To Deliver The Benefits Set Forth In The CEF-EE Program And Meet The Clean Energy Act’s Energy Reduction Mandates, And Should Be The Exclusive Provider Of Regulated Energy Efficiency Programs In Its Service Territory.**

The following factors set forth in Ms. Reif’s direct testimony demonstrate that PSE&G is

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<sup>65</sup> *Id.* at p. 43, l. 24 to p. 44, l. 4.

<sup>66</sup> RC-1, Hausman direct testimony, p. 16, l. 5-9.

<sup>67</sup> 2T, p. 131, l. 22-24.

exceptionally positioned to deliver CEF-EE's vast benefits and meet the aggressive targets in the CEA to reduce energy consumption.<sup>68</sup>

- ***Established Customer Relationship:*** PSE&G has the ability to leverage its existing relationship with its customers and its position as the State's largest electric and gas delivery company. PSE&G has access to all potential CEF-EE Program participants through various channels, including monthly billing relationships. Regular interactions between the customer and the utility will help to encourage customer participation in the energy efficiency programs.<sup>69</sup>
- ***Expertise:*** In partnership with its existing network of third-party service providers, PSE&G has been implementing Board-approved energy efficiency programs since the late 2000s. PSE&G's Hospital and Multi-Family programs have both been the recipients of multiple awards over the past decade. At the public hearings, several witnesses expressed satisfaction and appreciation concerning their experiences with PSE&G's programs.
- ***On-bill Repayments:*** The ability to efficiently support and administer on-bill repayments over an extended period of time at zero percent rates in a manner that is accessible and easy for all customers, which will reduce the up-front cost burden of energy efficiency improvements. Rate Counsel witness Hausman agrees that PSE&G is uniquely positioned to provide on-bill repayment to its customers.<sup>70</sup>
- ***Usage Data:*** Access to customer usage data to identify energy savings opportunities and monitor the impact of completed energy efficiency projects.

Moreover, the CEA puts the responsibility to achieve energy savings on the public utilities, not the BPU or any other entity.<sup>71</sup> The CEA even permits the Board to assess penalties against the public utilities if they fail to achieve those targets.<sup>72</sup> Neither the OCE nor any other

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<sup>68</sup> PS-2, Reif direct testimony, p. 18, l. 16 to p. 20, l. 6.

<sup>69</sup> As Lime Energy, an OCE vendor, noted at the evidentiary hearing: "Based on our extensive, national experience, we have repeatedly observed that customers are more likely to trust an energy efficiency offer when presented in coordination with the utility, rather than merely as a third party. The most successful programs Lime operates are those where we 'white label' our offerings, presenting the utility brand on our marketing material, our ID badges, and even the clothing we wear." 1T, p. 49, l. 25 to p. 50, l. 11.

<sup>70</sup> RC-1, Hausman direct testimony, p. 25, l. 5-7.

<sup>71</sup> N.J.S.A. 48:3-87.9(a).

<sup>72</sup> N.J.S.A. 48:3-87.9(e)(3)-(4).

entity has the same incentive to meet the savings targets as the utilities. With that responsibility the CEA places on the utilities must come full control over PSE&G's ability to meet those targets, free from any interference, limitation, confusion, or inefficiency that would be caused by other regulated programs.<sup>73</sup> The Company's success, and the achievement of the State's policy goals, cannot be dependent upon entities that do not bear responsibility for achieving those goals. PSE&G should be the exclusive provider of regulated energy efficiency programs in its service territory. PSE&G's proposal is limited to regulated energy efficiency programs; it does not propose to replace the private, unregulated marketplace.

If PSE&G becomes the exclusive provider of regulated energy efficiency services in its service territory, a key to the CEF-EE Program being successful for customers will be the important function that the OCE would have going forward. Under PSE&G's proposal, the OCE will -- after a transition period -- shift from administering a limited number of programs, to taking on governance, oversight, auditing, and policy-setting functions on a much wider array of more extensive programs.<sup>74</sup> This function would protect customers by ensuring that the Company is doing what it says it will do; specifically, delivering energy savings and bill reductions in a cost-effective manner. PSE&G has put forth a comprehensive transition plan as

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<sup>73</sup> Consistent with PSE&G's position, ACE stated at the evidentiary hearing: "[T]he utility, which is statutorily responsible for achieving these reductions [under the CEA], must be allowed to manage the programs that will allow it to meet the mandated goals. This type of administrative structure would support New Jersey as a state leader in clean energy." 1T, p. 56, l. 3-10. Similarly, NJNG offered: "[U]tilities are uniquely positioned to support Governor Murphy's Administration and the Board of Public Utilities in implementing the [CEA], specifically the . . . savings targets set forth in that law . . . .The utilities should not face a mandated responsibility to deliver energy savings as set forth in the law, with penalties for non-attainment, and then effectively be told that they cannot operate in the market space where the most cost-effective savings opportunities exist." 1T, p. 64, l. 22 to p. 66, l. 7.

<sup>74</sup> PS-2, Reif direct testimony, p. 18, l. 10-12.



part of this filing.<sup>75</sup>

PSE&G's proposal, beginning with CEF-EE, to become the exclusive provider of regulated energy efficiency programs in its service territory will help lift New Jersey to the forefront of energy efficiency in the country. This is necessary because New Jersey has not fared well recently with respect to energy savings. In the 2018 State Energy Efficiency Scorecard, the American Council for an Energy-Efficient Economy ("ACEEE") ranked New Jersey 18<sup>th</sup> overall for its energy efficiency programs and policies, and 29<sup>th</sup> overall in the level of energy savings that are achieved annually. More locally, New Jersey ranked last among its peer northeastern states.<sup>76</sup> In Fiscal Year 2018, the OCE achieved just 0.36% electric savings as a percentage of retail sales, and just 0.16% in gas savings as a percentage of retail sales.<sup>77</sup> To meet the minimum energy savings targets in the CEA, the OCE would have to increase its electric savings by more than five times its current savings, and its gas savings by more than four times.

PSE&G recognizes the inherent constraints that are placed on the OCE as a governmental entity seeking to manage energy efficiency programs. According to the Board's accounting, more than \$1.5 billion has been diverted from the State's Clean Energy Fund.<sup>78</sup> Those funds were reallocated for purposes other than the OCE implementing energy efficiency programs.

Moreover, the OCE currently operates on one year budgets. If this current practice continues, it will prevent the growth in energy savings that the CEA requires and will also cause

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<sup>75</sup> See, e.g., PS-3, Reif supplemental testimony, Exhibit 1.

<sup>76</sup> PS-2, Reif direct testimony, p. 13, l. 19 to p. 14, l. 2.

<sup>77</sup> *New Jersey's Clean Energy Program FY19-FY22 Strategic Plan*, *supra*, pp. 10-11.

<sup>78</sup> *NJ Board of Public Utilities Response to FY 2017-2018 State Budget*, p.14 (accessible at [https://www.njleg.state.nj.us/legislativepub/budget\\_2018/BPU\\_response.pdf](https://www.njleg.state.nj.us/legislativepub/budget_2018/BPU_response.pdf)).

great reluctance among energy efficiency vendors to operate in New Jersey. As Lime Energy, one of OCE's vendors, stated at the public hearings:

BPU programs operate on a year-to-year basis and they are subject to an . . . annual state budget process that often leaves programs underfunded. This instability makes it difficult for firms like Lime Energy to invest in our businesses and grow and maintain full-time staff in the state. Making a six-year commitment of the magnitude proposed by PSE&G will signal to the market that energy efficiency is here to stay in New Jersey.<sup>79</sup>

In a 2016 independent evaluation report, Energy & Resource Solutions ("ERS") describes policies and procedures that the OCE is required to follow as a state entity that place "constraints on its work."<sup>80</sup> For example, all contract changes and details "must go through the Department of Treasury for approval," a slow, inefficient process that can take "weeks, months, or, in some cases, years."<sup>81</sup> Additionally, "[i]ncentive checks must also be issued by the Treasury, which increases the amount of time it takes to pay customers."<sup>82</sup>

A report by the Regulatory Assistance Project ("RAP"), referenced by Rate Counsel witness Hausman during discovery,<sup>83</sup> is also critical of the government-as-program-implementer model to which New Jersey currently subscribes. In its report entitled "Who Should Deliver Ratepayer-Funded Energy Efficiency," RAP states: "Generally, government administration of consumer-funded energy efficiency programs has not gone as well as administration by other

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<sup>79</sup> 3/21/19, 4:00 p.m. public hearing transcript, p. 52, l. 24 to p. 53, l. 8.

<sup>80</sup> See *Process Evaluation Study prepared for the New Jersey Clean Energy Program*, January 2016, at p. 44 (accessible at

<http://www.njcleanenergy.com/files/file/Library/NJCEP%20Process%20Evaluation%20Final%20Report%20and%20Memo%2002152017.pdf>).

<sup>81</sup> *Id.* at p. 45.

<sup>82</sup> *Id.*

<sup>83</sup> Dr. Hausman's response to PS-RC-EH-1.

means.”<sup>84</sup> The RAP report states further: “State government is likely to be attuned to statutory goals, but without care may not be nimble enough to manage changing markets. . . .”<sup>85</sup> In addition, RAP notes: “Fiscal rules and procurement rules may limit management and financial flexibility.”<sup>86</sup>

Given these innate governance limitations, it is no surprise that the available data indicates that the OCE programs are not cost-effective. The 2016 ERS report found that “NJCEP is generally less cost-effective than peer programs” and that “compared to other EE portfolios, New Jersey has a typical-sized budget but achieves fewer energy savings than most, resulting in a higher cost per energy unit saved than many other programs with very similar portfolios.”<sup>87</sup> The report also noted that “cost efficiency is not a focus within the organization.”<sup>88</sup>

Similarly, a cost benchmarking study of the OCE programs that ERS performed in 2015 concluded: “The first portfolio-wide trend of note in the data is an overall high cost per kWh relative to other programs”, and the “program-by-program \$/kWh results fall short of the level of excellence desired by the NJCEP administrators, with few exceptions.”<sup>89</sup> The 2015 ERS benchmarking study found that NJCEP programs were on average in the 39<sup>th</sup> percentile of peer programs for their cost efficiency, far away from the top quartile of programs that would be

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<sup>84</sup> *RAP Report, Who Should Deliver Ratepayer-Funded Energy Efficiency*, November 2011, at p. 23 (accessible at [https://www4.eere.energy.gov/seeaction/system/files/documents/rap\\_sedano\\_whoshoulddeliverratepayerfundedee\\_2011\\_11\\_15.pdf](https://www4.eere.energy.gov/seeaction/system/files/documents/rap_sedano_whoshoulddeliverratepayerfundedee_2011_11_15.pdf)).

<sup>85</sup> *Id.* at p. 24.

<sup>86</sup> *Id.*

<sup>87</sup> 2016 ERS report, *supra*, at pp. 42 and 95.

<sup>88</sup> *Id.* at p. 94.

<sup>89</sup> *Review and Benchmarking of the New Jersey Clean Energy Program prepared for the New Jersey Board of Public Utilities*, February 24, 2015, p. 6 (accessible at [http://www.njcleanenergy.com/files/file/Library/ERS%20Benchmark%20and%20Program%20Review\\_v3.pdf](http://www.njcleanenergy.com/files/file/Library/ERS%20Benchmark%20and%20Program%20Review_v3.pdf)).



considered the most cost-effective.<sup>90</sup>

As an investor-owned utility, PSE&G is not faced with the inherent challenges with which OCE is faced. For example, following BPU approval of program and subprogram investment amounts, PSE&G does not face the funding uncertainty that hampers the State's programs. CEF-EE Program dollars will either be spent on the Company's energy efficiency programs or returned to customers as part of its annual cost recovery filings. Further, all utility spending is subject to a prudence review, and the OCE will review the cost-benefit results of PSE&G's programs. Lastly, if approved, the CEF-EE Program will run for six years, creating the consistency and certainty that will give the energy efficiency marketplace the confidence to invest in New Jersey, thereby growing the green economy in the state and encouraging year-over-year improvements in energy savings that will satisfy the CEA's savings targets.

The 2016 ERS report notes that New Jersey is "the only state where the organization promoting clean energy is part of the regulatory body, as opposed to an independent authority."<sup>91</sup> It further describes New Jersey as "the only state where clean energy programs are run through the regulatory body."<sup>92</sup> Rate Counsel witness Hausman agrees with these conclusions.<sup>93</sup> Given the mandates of the CEA for utilities to significantly reduce customers' energy usage, and PSE&G's unique ability to achieve those savings in a cost-effective manner, the BPU should -- after the transition period described in the filing -- move away from this governance island on which it sits alone, adopt best practices for energy efficiency program administration, and permit

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<sup>90</sup> *Id.*

<sup>91</sup> 2016 ERS report, *supra*, at p. 21.

<sup>92</sup> *Id.* at p. 29.

<sup>93</sup> 1T, p. 249, l. 5-18.

the Company to be the exclusive provider of regulated energy efficiency programs in its service territory.

**C. Not Only Is PSE&G Best Situated To Deliver The Energy Savings Required By The CEA And The Benefits From The CEF-EE Program, But There Is No Better Time Than The Present For The BPU To Approve The CEF-EE Program.**

Ultimately, the only issue that Rate Counsel truly proffers regarding the CEF-EE Program is its claim that the filing is premature in light of the energy efficiency initiatives that the Board is currently undertaking as part of: (1) the CEA; and (2) as Rate Counsel noted for the first time at the evidentiary hearing, the EMP that is under development. The Board should reject that argument. The truth is that there is no better time than the present for the BPU to approve the indisputably cost-effective suite of programs that PSE&G has presented, which are designed to meet the CEA's aggressive reduction targets and generate tremendous benefits for the State and its residents.

There is nothing in the CEA that prohibited PSE&G from making the filing in October 2018 or the BPU approving it. The CEA did not supersede the RGGI law, which gives the BPU broad authority to review and approve utilities' energy efficiency programs.<sup>94</sup> In fact, the CEA cross-references the RGGI law five times.<sup>95</sup>

Additionally, the CEA requires that the Board, by May 23, 2019 -- a mere six days after the date of this brief and even before reply briefs are due -- complete three specific tasks with respect to energy efficiency; specifically, the BPU must:

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<sup>94</sup> N.J.S.A. 48:3-98.1.

<sup>95</sup> N.J.S.A. 48:3-87.9.

- require each electric and gas public utility to “reduce the use of electricity, or natural gas, as appropriate, within its territory, by its customers, below what would have otherwise been used”;
- “conduct and complete a study to determine the energy savings targets for full, economic, cost-effective potential” for electric and natural gas usage reduction, “as well as the potential for peak demand reduction by the customers of each [electric and gas utility] and the timeframe for achieving the reductions”; and
- “adopt quantitative performance indicators” for each electric and gas public utility, “which shall establish reasonably achievable targets for energy usage reductions and peak demand reductions. . . .”<sup>96</sup>

The CEF-EE filing is scheduled to conclude by no later than early July 2019. Thus, the imminent May 23, 2019 deadline for the Board’s energy efficiency initiatives under the CEA will have passed weeks *before* the BPU’s final ruling on the CEF-EE Program. Indeed, the study required by the CEA has already been released in draft form, and PSE&G understands that the BPU will approve a final version of the study at its May 28, 2019 agenda meeting.<sup>97</sup> The study begins to address the quantitative performance indicators, reduction targets, and incentive/penalty structure referenced in the CEA. Clearly, the timing of the CEF-EE Program, including the year-long transition period described in Ms. Reif’s supplemental testimony,<sup>98</sup> is aligned perfectly with the CEA and the State’s energy efficiency goals, because the filing will be before the BPU for approval promptly after issuance of the initial study and when energy efficiency momentum in the state is at its peak.

In addition, the draft market potential study proposes electric savings targets beginning

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<sup>96</sup> See N.J.S.A. 48:3-87.9(a)-(c).

<sup>97</sup> PSE&G submitted written comments on the draft study on May 16, 2019.

<sup>98</sup> PS-3, Reif supplemental testimony, Exhibit 1.

next year at 0.75%, and increasing to 2024 when the proposed target is 2.15%.<sup>99</sup> For gas, the study proposes a 2020 target of 0.25%, which increases to 2024 when the proposed target is 1.1%.<sup>100</sup> The 2020 electric savings target would require the OCE to more than double its Fiscal Year 2018 performance (0.36%), and the 2020 gas savings target would require a 56% increase in the OCE's Fiscal Year 2018 performance (0.16%).<sup>101</sup> Put simply, the utilities are not going to reach these savings targets by keeping the *status quo*, as Rate Counsel proposes. Delaying approval of the CEF-EE Program will almost certainly push attainment of the minimum savings targets in the CEA beyond 2024.

At hearing, Rate Counsel witness Hausman spent a considerable amount of his sur-rebuttal testimony claiming that the CEF-EE Program is also premature because the 2019 EMP is still under development, and that document is anticipated to address energy efficiency issues.<sup>102</sup> This argument is also misguided. Dr. Hausman submitted lengthy direct testimony in this filing that repeatedly labels the CEF-EE Program premature in light of the ongoing CEA initiatives.<sup>103</sup> At no point in his direct testimony did Dr. Hausman opine that the CEF-EE was premature because of the EMP, irrespective of the fact that the EMP's development was well underway by the time Dr. Hausman submitted his direct testimony in this case on March 22, 2019. To put the delay in offering this opinion into perspective: Governor Murphy signed Executive Order 28, which authorized the BPU to commence the EMP development process, on May 23, 2018, 10 months before Dr. Hausman submitted his direct testimony. The BPU conducted seven EMP

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<sup>99</sup> Energy Efficiency in New Jersey, drafted dated May 9, 2019, p. 79, Table 35, accessible at <https://files.constantcontact.com/6e1453b9001/0bb2649a-b13d-4e06-a964-3b2f07983750.pdf>

<sup>100</sup> *Id.* at p. 79, Table 36.

<sup>101</sup> *New Jersey's Clean Energy Program FY19-FY22 Strategic Plan*, *supra*, pp. 10-11.

<sup>102</sup> 1T, p. 173, l. 24 to p. 191, l. 14.

<sup>103</sup> *See generally* RC-1, pp. 8-28.

stakeholder meetings in total in September and October 2018, approximately six months before Dr. Hausman submitted his direct testimony. Written stakeholder comments on the EMP were due to the BPU by October 12, 2018, also about six months before Dr. Hausman submitted his direct testimony. Dr. Hausman's failure to raise the EMP in his direct testimony, when the EMP's development was well underway by that point, greatly undercuts his new argument that the CEF-EE is premature because that policy document is not yet complete.

Rate Counsel's newfound reliance on the EMP is meritless even putting aside the fact that it is tardy for no valid reason. The EMP will not supersede or alter in any manner the utilities' obligations under the CEA to reduce customers' energy usage, with penalties for non-compliance, nor will it override the RGGI law which grants the BPU broad authority to review and approve utilities' energy efficiency programs. Furthermore, by some accounts, the BPU is not expected to finalize the EMP until December 2019, 19 months after Governor Murphy signed the CEA into effect. The State and its residents simply cannot wait that long before it begins tackling the energy efficiency mandates of the CEA that the Legislature and Governor Murphy sought to address by May 23, 2019.

Moreover, Rate Counsel's timeliness argument, whether based on the CEA or EMP, overlooks a crucial fact: the CEF-EE Program calls for a one year transition period during which the OCE programs will shift to PSE&G.<sup>104</sup> Rather than being premature, CEF-EE is deliberate, methodical, and designed with the appropriate level of stakeholder engagement.

In addition, PSE&G filed the CEF-EE Program alongside two other CEF filings: (1)

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<sup>104</sup> PS-3, Reif supplemental testimony, p. 12.



Electric Vehicles and Energy Storage (“CEF-EVES”);<sup>105</sup> and (2) Energy Cloud (“CEF-EC”), the cornerstone of which is the installation of advanced metering infrastructure (“AMI”) in the Company’s electric service territory.<sup>106</sup> Rate Counsel filed a motion to stay the CEF-EVES filing on the basis that it was premature due to the BPU’s ongoing electric vehicle and energy storage initiatives, including the CEA and 2019 EMP. Rate Counsel also moved to dismiss the CEF-EC filing on the ground that it was premature, *i.e.*, Rate Counsel claims that the moratorium on AMI pre-approval filings that the Board announced in August 2017 precluded PSE&G from making that filing until after the BPU assesses the prudence of RECO’s AMI program. However, contrary to the CEF-EVES and CEF-EC filings, Rate Counsel did not move to dismiss the CEF-EE filing on the grounds that it is purportedly premature. Rate Counsel’s decision not to move to dismiss or stay the CEF-EE Program, unlike its companion filings, along with the requirements of the CEA and the Board’s ongoing activity in the energy efficiency sphere, indicates that the CEF-EE Program is timely.

In sum, Rate Counsel’s position would delay the realization of the undisputed benefits that CEF-EE would bring to the State and its residents, would delay meeting the objectives of the CEA, and would delay reaching the savings targets set forth in the draft market potential study. Alternatively, the Board can approve the indisputably cost-effective CEF-EE Program, generate the energy consumption, environmental, and economic benefits the Program will provide, and take prompt action in response to the CEA’s call to action on energy efficiency. The BPU should act in the State’s and its residents best interests, approve the CEF-EE Program, and make New Jersey a national model for energy efficiency.

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<sup>105</sup> BPU Docket No. 18101111.

<sup>106</sup> BPU Docket No. 18101115.

**D. The Undisputed Record Demonstrates That 15 Years Is The Most Appropriate Amortization Period.**

The undisputed record supports the Company's proposal to amortize the CEF-EE Program investments over 15 years. That proposal is based on the energy efficiency measures' useful lives.<sup>107</sup> A 15-year amortization period best matches the cost recovery of these investments with the useful life of the measures being installed.<sup>108</sup> The matching of benefits with costs avoids intergenerational inequity, *i.e.*, future customers reaping the benefits of measures for which prior customers paid. A 15-year amortization period for the Company's energy efficiency measures is also consistent with the approach taken in the Company's 2018 base rate case towards the depreciation of PSE&G's assets. More specifically, in the detailed depreciation study that was recently conducted in that base rate case, the Company's assets were reviewed to set depreciation rates based on the assets' remaining useful lives.<sup>109</sup> The same logic should apply here regarding the amortization period.

Rate Counsel does not challenge the Company's 15-year measure life calculation, and it does not dispute that a 15-year amortization period is the appropriate matching of benefits and costs with respect to the CEF-EE Program investments.<sup>110</sup> Indeed, Rate Counsel's amortization witness, Dante Mugrace, acknowledges it is "a general principle that basic rate-making theory provides that costs and benefits should be matched[.]"<sup>111</sup>

Nevertheless, Rate Counsel recommends that the Board adopt a seven-year amortization period for the Company's energy efficiency investments. The Board should reject this

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<sup>107</sup> PS-2, Reif direct testimony, p. 17, l. 10-15.

<sup>108</sup> PS-6, Swetz rebuttal testimony, p. 4, l. 1 to p. 5, l. 2.

<sup>109</sup> *Id.* at p. 3, l. 11-17.

<sup>110</sup> 1T, p. 317, l. 8-11; p. 319, l. 25 to p. 320, l. 8.

<sup>111</sup> Mr. Mugrace's response to PS-RC-DM-2C.

recommendation. It is undisputed that the 15-year amortization period proposed by the Company would result in lower bill impacts during the initial seven years of the CEF-EE Program, as compared to Rate Counsel's seven-year amortization proposal.<sup>112</sup> In fact, customers, including low income customers, would pay more with Rate Counsel's seven-year amortization period from program start through around 2029.<sup>113</sup> Given that customers leave the PSE&G service territory for any number of reasons, Rate Counsel's proposal would mean that current customers pay more so future customers enjoying the benefits of the energy efficiency measures pay less. This is the very definition of intergenerational inequity, as Mr. Mgrace acknowledged at hearing:

Q: Well, let's put it this way, if a customer is paying the higher upfront costs [under a seven-year amortization period] and then leaves and then somebody immediately moves in and reaps the benefits with lower bills, that would be inequitable?

A. Within a 15 year – assuming your 15-year period, if someone leaves in year seven, I accept that answer.<sup>114</sup>

Rate Counsel offers no quantitative analysis to support its seven-year amortization recommendation. Instead, Rate Counsel notes that a seven-year amortization period will result in lower overall program costs than a 15-year amortization period on a nominal basis.<sup>115</sup> However, a 12-year, 10-year, and 8-year amortization period, for example, would also all result in lower overall program costs than a 15-year amortization period. A five-year amortization period would result in lower overall program costs than Rate Counsel's proposed seven-year amortization period. Rate Counsel's seven-year amortization period is arbitrary, plain and

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<sup>112</sup> PS-6, Swetz rebuttal testimony, p. 5, l. 1 to p. 6, l. 14; 1T, p. 329, l. 12-23.

<sup>113</sup> PS-6, Swetz rebuttal testimony, p. 5, l. 1 to p. 6, l. 14; 1T, p. 269, l. 21 to p. 270, l. 4.

<sup>114</sup> 1T, p. 331, l. 7-14.

<sup>115</sup> RC-4, Mgrace direct testimony, p. 11, l. 19 to p. 12, l. 6.

simple, while the Company's recommended 15-year amortization period is based on the life of the measures and on the principle, endorsed by Rate Counsel's witness Mr. Mugrace, that customers should pay for the benefits they receive.

Rate Counsel's argument that a seven-year amortization period will result in lower overall program costs also ignores the time value of money. The true cost of the revenue requirements must take into account the time value of money by applying a discount rate to future revenue requirements. At hearing, Company witness Swetz presented a schedule comparing the revenue requirements for a seven-year amortization period and a 15-year amortization period while accounting for net present value.<sup>116</sup> Mr. Swetz's undisputed analysis demonstrates that the difference between the two amortization periods while accounting for net present value is approximately \$1 million, a very small amount in the context of the CEF-EE Program. For that amount, customers would receive lower bills during the initial period of the Program and intergenerational equity. Unlike PSE&G, Rate Counsel did not present any analysis of the two proposed amortization periods accounting for net present value.<sup>117</sup>

Rate Counsel witness Mugrace also notes in his direct testimony that the seven-year amortization period is consistent with the Board-approved amortization periods for previous PSE&G energy efficiency programs.<sup>118</sup> However, there is no analysis in those Orders or stipulations demonstrating the basis of that seven-year period, or that a seven-year period is best.<sup>119</sup> Moreover, those Orders approved comprehensive settlements that by their express terms

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<sup>116</sup> PS-19.

<sup>117</sup> 1T, p. 328, l. 2-6.

<sup>118</sup> RC-4, Mugrace direct testimony, p. 11, l. 14-18.

<sup>119</sup> *In the Matter of the Petition of Public Service Electric and Gas Company to Continue its Energy Efficiency Economic Extension Program on a Regulated Basis*, BPU Docket No. EO14080897 Order

are not binding on the parties in any future proceeding.<sup>120</sup> Indeed, Rate Counsel curiously made this same argument -- *i.e.*, that prior settlements are not binding in future proceedings -- when the Company introduced rebuttal evidence at hearing that its Carbon Abatement Program has a ten-year amortization period for energy efficiency investments.<sup>121</sup> The BPU's 2008 Order in the Carbon Abatement Program filing demonstrates that the Board has approved longer than seven-year amortization periods for PSE&G's energy efficiency programs.

Lastly, Rate Counsel witness Mugrace asserts that a 15-year amortization period would be inappropriate because the Company will implement additional energy efficiency programs in the future, and the result would be the "pancaking" of cost recovery efforts on top of the CEF-EE Program. This argument focuses myopically on the costs of multiple energy efficiency programs, while ignoring that the "pancaking" of benefits from multiple energy efficiency programs would occur as well. If the future energy efficiency programs are cost-beneficial and the amortization period is based on the measures' lives, both of which are features of CEF-EE, then the benefits to customers will continue to outweigh the costs. Furthermore, Rate Counsel's proposed seven-year amortization period accelerates upfront costs to reduce costs in the future, resulting in intergenerational inequity. That intergenerational inequity would be exacerbated if

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Adopting Stipulation, p. 10 (Apr. 15, 2015); *In the Matter of the Petition for Public Service Electric and Gas Company for Approval of its Energy Efficiency 2017 Program and Recovery of Associated Costs*, Order Adopting Stipulation, p. 7 (August 23, 2017).

<sup>120</sup> EE Ext. II stipulation, pp. 21-22, para. 45; EE 2017 stipulation, p. 18, para. 42.

<sup>121</sup> *In the Matter of the Petition of Public Service Electric and Gas Company Offering a Carbon Abatement Program in its Service Territory on a Regulated Basis and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1*, BPU Docket No. EO08060426, Order, Attachment 2 (Dec. 16, 2008); 1T, p. 325, l. 5-23.

continued into the future for new programs, as costs continue to be collected over a shorter time period than the benefits will last.

Rate Counsel presented no analysis showing the impact “pancaking” energy efficiency filings will have on customers.<sup>122</sup> PSE&G conducted the “pancaking” impact analysis. More specifically, the Company estimated the impact of continuing the CEF-EE Program at 2024 levels with a 2% escalation through September 2030 to evaluate the impact to customers of a 15-year amortization period versus a seven-year amortization period.<sup>123</sup> While the nominal cost over the entire program would be higher, bill impacts will remain lower under the 15-year amortization proposal through 2030.<sup>124</sup> Furthermore, the maximum average monthly impact under the 15-year amortization period would be only \$0.62 higher than under the seven-year amortization period, and occurs four years later (in 2034 vs 2031).<sup>125</sup>

Given the alignment of cost recovery of the energy efficiency investments with the anticipated energy savings, as well as the lower initial and maximum annual rate impacts, the undisputed record supports the Company’s proposal of a 15-year amortization period.

**E. The Record Clearly Supports The Company’s Need For Additional, Capitalized Information Technology (“IT”) Costs To Achieve The Energy Savings Set Forth In The Filing And The CEA.**

PSE&G witness Reif, who has a significant IT background, is the Company’s witness supporting the proposed IT expenditures in the CEF-EE Program.<sup>126</sup> As noted in Ms. Reif’s

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<sup>122</sup> 1T, p. 333, l. 25 to p. 334, l. 4.

<sup>123</sup> PS-6, Swetz rebuttal testimony, p. 7, l. 21 to p. 8, l. 3.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> Schedule KR-CEF-EE-1, pp. 1-2 (attached to PS-2, Reif direct testimony); 1T, p. 92, l. 18 to p. 94, l. 3.

direct testimony, PSE&G cannot achieve the energy savings set forth in the CEF-EE filing and the CEA without the proposed IT expenditures.<sup>127</sup> The scale and scope of the CEF-EE Program are significantly larger and more complex than any program previously implemented, and the CEA's minimum thresholds of 2% and 0.75% energy reductions will require a significant increase in PSE&G's energy efficiency efforts. Thus, the technology required to enable the CEF-EE Program exceeds the capabilities of PSE&G's current technology systems and platform, and will ensure that PSE&G's customers can access the CEF-EE Program's energy efficiency products and incentives in a seamless, efficient, and secure manner.

Moreover, customers today transact with businesses very differently than they did a decade ago. An integrated approach is needed to ensure numerous program participants, vendors, trade allies, and the Company's call center and workforce can be coordinated to support the planning, marketing, order processing, delivery, and billing/payment services across the suite of CEF-EE subprograms.

The CEF-EE Program will provide for a comprehensive energy efficiency services platform that integrates PSE&G's information with customers, suppliers, vendors, trade allies, and other market participants in a manner that provides a seamless customer experience, while protecting the privacy of customer data. The proposed investment also enables PSE&G to offer a significantly scaled up on-bill repayment offering that is expected to be a major factor in subprogram adoption. PSE&G's existing billing solution technology was designed to support utility revenue billing and not on-bill repayment solutions of the magnitude proposed in the CEF-EE filing. The on-bill repayment solution that supports the Company's current energy efficiency

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<sup>127</sup> PS-2, Reif direct testimony, p 14, l. 20 to p. 16, l. 6.

program includes some manual components, and is not designed to handle the volume of repayments proposed under CEF-EE. In contrast, the on-bill repayment solution in CEF-EE will enable PSE&G to qualify and enroll participants; manage payments, balances, and collectible amounts; and post information to the customer's bill at the scale anticipated by the CEF-EE Program. Key additional elements of the IT solution include the development of new web functionality, enhancements to PSE&G's customer and work management systems, and advanced reporting and analytics systems tied specifically to the proposed energy efficiency subprograms to improve evaluation, measurement, and verification activities.<sup>128</sup>

Unlike Reif, Rate Counsel witness Mugrace -- the only non-PSE&G witness in the case that addressed PSE&G's IT proposal -- does not have any background in IT.<sup>129</sup> He does not contest that the Company will require additional IT expenditures to deliver the CEF-EE Program and achieve the CEA's savings targets.<sup>130</sup> Indeed, his direct testimony supports the Company's position regarding the need for additional IT expenditures:

Given the rapidly changing technology environment, changes in capabilities, behavior, new developing apps for mobile devices and computers, as well as, the fact that new technologies are being developed at a much quicker pace, a five-year amortization for software costs is reasonable.<sup>131</sup>

Mr. Mugrace's issue with the Company's proposal is that, in his view, PSE&G has not

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<sup>128</sup> Significant detail regarding the Company's proposed IT capital expenditures can be found in Section 4.5 of Schedule KR-CEF-EE-2 (attached to PS-2, Reif's direct testimony); Exhibit 1 to Ms. Reif's rebuttal testimony (PS-4); and PSE&G's responses to S-PSEG-EE-ENE-0019 and S-PSEG-EE-ENE-0020. PSE&G's responses to these two discovery questions are also attached to this brief as Exhibits B and C.

<sup>129</sup> 1T, p. 324, l. 14-19.

<sup>130</sup> 1T, p. 336, l. 5-11.

<sup>131</sup> RC-4, Mugrace direct testimony, p. 13, l. 6-9.



provided sufficient detail to justify the costs.<sup>132</sup> That is incorrect. In response to this claim in Mr. Mugrace's direct testimony, PSE&G provided a detailed summary of the 12 categories of proposed IT costs, and the Company included for each subcategory: a narrative description, the IT work that it entails, and the associated cost.<sup>133</sup> This is sufficient detail for the Board to rule on PSE&G's request.

Mr. Mugrace also notes in his direct testimony that PSE&G has "spent and recovered millions of dollars in IT investments in prior energy efficiency programs."<sup>134</sup> When reviewed in the proper context, it is clear that this it is not a rational reason to deny PSE&G's IT proposal in this proceeding. The "millions of dollars" to which Mugrace refers can be broken down as follows:

EE Program	Year Approved	Capital IT Approved <sup>135</sup>
Carbon Abatement	2008	\$1M
EEE	2009	\$1M
EE Ext I	2011	\$0
EE Ext II	2015	\$400K
EE 2017	2017	\$1.3M

Thus, over the course of 11 years, the Company has been approved for \$3.7M in IT capital costs to run five, smaller-scale energy efficiency programs. However, \$2M of that \$3.7M

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<sup>132</sup> *Id.* at p. 10, l. 13-14.

<sup>133</sup> PS-4, Reif rebuttal testimony, Exhibit 1.

<sup>134</sup> RC-4, Mugrace direct testimony, p. 10, l. 12-13.

<sup>135</sup> PSE&G's response to S-PSEG-EE-ENE-0012; EE Ext. II Order, *supra*, p. 4; EE 2017 Order, *supra*, at p. 4.

(54%) was approved at least 10 years ago, a lifetime when it comes to IT. Furthermore, the \$1.3M approved in the EE 2017 filing was entirely dedicated to the Company's implementation of its new smart thermostats pilot program, and PSE&G ultimately did not capitalize these IT costs.<sup>136</sup> This means that the BPU has approved PSE&G for just \$400K in IT capital costs this decade to run its primary energy efficiency programs (*i.e.*, Direct Install, Hospital, and Multi-Family), and \$2.4M total since 2008 (\$3.7M - \$1.3 for smart thermostat pilot that PSE&G ultimately did not capitalize). These dated and limited IT expenditures -- which the Board approved solely to run the small scale programs that were before the BPU at those times -- are not a reason to deny the IT expenditures needed to significantly ramp up PSE&G's energy efficiency efforts to meet the CEA's targets and the State's energy goals. Any finding to the contrary would conflict with Rate Counsel's position, which is that we are living in a "rapidly changing technology environment" and "new technologies are being developed at a much quicker pace".<sup>137</sup>

In sum, Rate Counsel's position on IT costs is untenable. Participation in energy efficiency programs can suffer, and market barriers can be erected, if the Company's website and online marketplace are subpar. Furthermore, given the CEA's aggressive reduction targets, it is logical for the Company to make the necessary investment in its IT systems now to ensure that its energy efficiency programs are successful. Rate Counsel's concern regarding "gold plating" is mitigated by the fact that PSE&G's IT costs would be reviewed for prudence as part of its annual cost recovery filings. PSE&G's proposed IT capital costs should be approved.

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<sup>136</sup> EE 2017 Order, *supra*, at p. 4; PSE&G's response to S-PSEG-EE-ENE-0012.

<sup>137</sup> RC-4, Mugrace direct testimony, p. 13, l. 6-9.

**F. The BPU Should Reject Rate Counsel's Ambiguous Cap On CEF-EE  
Administrative Expenses.**

The administrative costs included in the CEF-EE proposal represent the Company's projections of the internal labor and supporting program costs that are needed to administer successful energy efficiency programs and meet the energy savings targets in the filing and the CEA.<sup>138</sup> Rate Counsel does not challenge any specific administrative expense contained in the Company's filing. Instead, Rate Counsel witness Mugrace recommends that the Board adopt a cap on Program expenses.<sup>139</sup> His recommendation is not supported by any legal authority, studies, reports, or analysis. Moreover, Mr. Mugrace is not willing to provide the Board with a proposed cap figure,<sup>140</sup> what costs should be considered as subject to the cap,<sup>141</sup> or whether that cap would be a hard cap (disallowance *per se* of any recovery of expenses above the cap) or a soft cap (permitting recovery of prudently incurred costs above the cap).<sup>142</sup> The Board should reject Mr. Mugrace's recommendation based on its sheer ambiguity alone.

Moreover, a cap on administrative expenses could create a disincentive for PSE&G to pursue opportunities for cost-effective energy efficiency, and from meeting the savings targets set forth in the CEA. Furthermore, the SCT, which the Company proposes to use to evaluate program cost-effectiveness, is a comprehensive test that takes into account all program benefits and costs, and is the most appropriate mechanism to use to screen for cost efficiency. Arbitrarily capping administrative costs at some unspecified number would interfere with proper cost-benefit screening without consideration of the full breadth of program costs and benefits, and is

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<sup>138</sup> PS-4, Reif rebuttal testimony, p. 26, l. 4-9.

<sup>139</sup> RC-4, Mugrace direct testimony, p. 14, l. 17-21.

<sup>140</sup> Mr. Mugrace's response to PS-RC-DM-6; 1T, p. 343, l. 1-10.

<sup>141</sup> Mr. Mugrace's response to PS-RC-DM-6(a).

<sup>142</sup> 1T, p. 345, l. 21 to p. 346, l. 11.

therefore not a reasonable approach. Further, Rate Counsel and Board Staff will have the opportunity to review all administrative costs for prudence in the annual cost recovery filings, making a cap unnecessary.<sup>143</sup> Rate Counsel's proposed cap on administrative expenses should be rejected.

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<sup>143</sup> *Id.* at p. 345, l. 2-20.

**II. THE CEF-EE PROGRAM IS COST-EFFECTIVE AS MEASURED BY THE APPROPRIATE METHODOLOGIES FOR EVALUATING THESE INVESTMENTS UNDER THE CEA AND THE BOARD'S RULES.**

PSE&G presented a cost-benefit analysis ("CBA") with its initial filing consistent with the CEA and BPU policy. Rate Counsel witnesses offered several criticisms of the Company's CBA analysis that run afoul of standard CBA practice and are inconsistent with Board policy. Still, those Rate Counsel witnesses found that the CEF-EE Program is cost-effective even when making their adjustments, as did PSE&G's expert when he adopted certain of Rate Counsel's suggestions and made other minor updates to the CBA in his rebuttal testimony. Thus, it is undisputed that the CEF-EE Program is cost-effective, and the BPU should approve it.

**A. PSE&G's Cost Benefit Analyses Plainly Demonstrate That The CEF-EE Program Is Cost-Effective.**

As discussed above, the CEF-EE Program is consistent with PSE&G's broader vision for a Clean Energy Future and aims to position New Jersey as a national leader in energy efficiency. The Program represents a clear pathway to achieving these energy goals and providing considerable benefits to customers and the state, in the form of lower bills, environmental improvements, and the creation of green jobs.<sup>144</sup> Moreover, PSE&G engaged Gabel Associates to complete a cost benefit analysis and analyze the cost effectiveness of the CEF-EE Program using all five cost benefit analysis tests required under the Board's Minimum Filing Requirements ("MFRs") for energy efficiency programs, where applicable, specifically, the SCT, TRC, PC, PAC, and RIM. This analysis, conducted by PSE&G witness Gabel-Frank, demonstrates that the CEF-EE Program generates benefits that exceed costs, is valuable, and

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<sup>144</sup> PS-2, Reif direct testimony, pp. 4-5. *See also* p. 15 of this brief.

should be approved by the Board. As demonstrated in PSE&G's filing, the CEF-EE Program overall is cost effective, with an initial SCT score (prior to minor adjustments discussed below) of 3.7, and with all of the subprograms resulting in benefits that exceed costs.

As discussed in detail in the record, the SCT is consistent with the letter and spirit of the CEA and New Jersey's energy and environmental policy goals, provides the most comprehensive approach to determining cost effectiveness, and should be the primary measure used to determine the merit of the CEF-EE Program. Unlike the other MFR-required tests, such as the more narrowly focused TRC (which nonetheless results in a total CEF-EE Program TRC of 1.0), the SCT quantifies a broad range of societal impact factors, including environmental benefits and economic impacts. The CEA specifically emphasizes the importance of measuring cost benefit by reference to environmental and economic benefits, consistent with the approach applied in many states to recognize the full range of benefits from energy efficiency.<sup>145</sup> The SCT recognizes a broad range of factors, including environmental benefits and other important societal impacts such as emission reductions, economic and employment benefits, enhanced ability for low income bill payment and reduced health costs, amongst others, and should be the primary test used to evaluate the cost-effectiveness of the CEF-EE Program.<sup>146</sup>

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<sup>145</sup> N.J.S.A. 48:3-87.9(d)(2).

<sup>146</sup> PS-2, Reif direct testimony, pp. 11-13.

The initial results of the cost benefit analysis of CEF-EE are set forth below:<sup>147</sup>

	SCT	TRC	PC	PAC	RIM
Residential Programs	3.8	1.1	12.0	1.5	0.7
C&I Programs	3.8	1.1	4.9	1.7	1.3
Low Income Programs	1.8	0.4	n/a	0.4	0.3
<b>Total Portfolio</b>	<b>3.7</b>	<b>1.0</b>	<b>6.3</b>	<b>1.6</b>	<b>1.1</b>

**B. Even After Making Several “Adjustments” That Improperly Reduce The Benefits And Increase The Costs Of The CEF-EE Program, Rate Counsel’s Expert Still Concludes That The Program Is Cost-Effective.**

Rate Counsel witnesses Hausman and Dismukes identify several alleged flaws in PSE&G’s CBAs, while nevertheless finding that the CEF-EE Program remains cost-beneficial despite correction for those alleged flaws.<sup>148</sup> In several cases, Rate Counsel’s challenges are inconsistent with the CEA, with New Jersey energy and environmental policy, and with well-accepted methodologies followed by public utilities and by professionals in the field of cost-benefit analysis. PSE&G has therefore rejected the vast majority of those challenges. Moreover, as noted above and discussed further in this subsection, even after making those inappropriate adjustments, Rate Counsel’s expert concludes that the Program is still cost-effective. In fact, Rate Counsel witness Dismukes finds that CEF-EE benefits are 50 percent greater than costs.<sup>149</sup> Finally, with regard to some of Rate Counsel’s claims, PSE&G has, for the sake of argument, accepted those changes and re-run its CBAs. As discussed in detail in subsection II C. below, Rate Counsel’s proposed adjustments had minimal effect on the CEF-EE program’s cost-benefit results, and the Program is still shown to be strongly cost beneficial.

<sup>147</sup> This Table sets forth the original CBA results included with the filing, in Exhibit PS-2, Schedule KR-CEF-EE-2, Appendix E, attached to PS-2 (Reif’s direct testimony).

<sup>148</sup> RC-7, Dismukes direct testimony, p. 24, l. 19 to p. 25, l. 7.

<sup>149</sup> DED-4, Alternative Cost-Benefit Analysis.xlsx, provided in response to PS-RC-1.



Rate Counsel's concerns regarding PSE&G's CBAs, and PSE&G's responses on the record are set forth in pages 7-26 of Mr. Gabel-Frank's rebuttal testimony (PS-7), and summarized below:

<u>Rate Counsel Concern</u>	<u>PSE&amp;G Response</u>	<u>Add'l Comment</u>
The time value of money between when on-bill repayment loans are provided to customers and when those loans are repaid by customers was not captured in CBA.	Adjustment to initial CBA made to account for Rate Counsel's concern. In nominal terms, the value of on-bill repayment loans is zero because the loans that are provided to customers have no interest. However, on a present value basis, the value of loans to customers is greater than the repayments made by customers on those loans.	Adjustments made to the PCT (additional benefit), PAC (additional cost), and RIM (additional cost) tests.
Any subprogram that provided free measures to participants resulted in overstated benefits in the PCT.	No adjustment necessary. Free measures are incentives in the same way a rebate is an incentive, and should be applied as such in the PCT.	The PCT in the California Standard Practice Manual ("CSPM") specifically includes incentives <u>and</u> bill reductions as a benefit to the participant. Therefore, including both is in line with accepted practices of cost-benefit analysis. <sup>150</sup>
PSE&G claimed a benefit for customers from foregone wholesale purchases of gas and electricity, but then did not include the lost revenue from not selling that gas and electricity to its distribution customers.	No adjustment necessary. Because New Jersey's electric and natural gas wholesale supply is deregulated and separate from utility distribution, the reduction of wholesale supply is not redistributed to ratepayers by the utility and is therefore not a cost that should be considered in the RIM test.	All electric and natural gas supply costs in New Jersey, even after embedding wholesale costs into retail prices, are either a pass-through cost from the utility, or billed separately by a third-party supplier. The full retail rate would not be recovered from non-Program participants.

<sup>150</sup> Rate Counsel witness Hausman acknowledges that the CSPM is the source "[p]ractitioners generally rely on . . . for standard definitions" of the five most common CBA tests. RC-1, Hausman direct testimony, p. 29, l. 10-11; 1T, p. 262, l. 7-17.



<u>Rate Counsel Concern</u>	<u>PSE&amp;G Response</u>	<u>Add'l Comment</u>
PSE&G applied a low social discount rate in the SCT (2.77%). PSE&G should have used the utility discount rate of 6.8% that it applied for the TRC and all other tests.	Rate Counsel is incorrect. The CSPM states that “[t]he Societal Test differs from the TRC test in that it includes the effects of externalities (e.g., environmental, national security), excludes tax credit benefits, and <u>uses a different (societal) discount rate.</u> ” The National Standard Practice Manual states that in addition to the benefits included in the TRC, the SCT should include “any benefits experienced by society, including: low-income community benefits, environmental benefits, economic development benefits, and reduced health care costs.”	Updated the value of the discount rate from 2.77% to 3.0% to conform with Rate Counsel witness Dismukes’ recommendation.
Market-based costs (e.g., RGGI) should be used to quantify the value of emissions.	No adjustment necessary. Market rates do not capture all externalities associated with emissions or the benefits associated with avoiding the release of emissions, as required under the CEA. <sup>151</sup>	The market-based approach proposed by Rate Counsel does not properly balance emissions damages with disutility, does not capture the full social cost of emitting an additional ton of emissions, nor the full benefit of a one-ton reduction in emissions. The value of energy efficiency, renewable energy, and clean energy initiatives and programs overseen and administered by the BPU will be seriously undervalued if valued against market-based costs such as RGGI allowances.

<sup>151</sup> Rate Counsel witness Dismukes acknowledges in discovery that not all externality costs associated with carbon emissions are captured in RGGI allowance prices. See PS-RC-DED-23.

<u>Rate Counsel Concern</u>	<u>PSE&amp;G Response</u>	<u>Add'l Comment</u>
The Company's DRIPE benefits are derived from the AURORA model.	No adjustment necessary. The BPU has expressed confidence and support for the AURORA model.	The Board's confidence in and support of the AURORA model was expressed as recently as June 2018, when a BPU bid solicitation stated: "AURORA is the most comprehensive and reliable electricity forecasting and analysis tool available."
Criticisms of the methodology used to calculate volatility hedge benefits	No adjustment necessary. While the multiple studies provided in support of the 10% hedge volatility factor used in the CEF-EE CBA illustrate the variability in potential outcomes, the range of benefits is spread between a minimum of 7.5% and a maximum of 24%. The 10% figure used in the analysis is at the conservative end of the spectrum.	Rate Counsel witness Dismukes does not dispute that energy efficiency acts as a hedge against market volatility, or that there is a value associated with the avoidance of market volatility.
Questioning the RPS purchase forecast used in the CEF-EE filing, and stating that the analysis should be based upon the values provided in the Rutgers Center for Energy, Economic & Environmental Policy ("CEEPP") renewable energy certificate ("REC") forecast avoided cost study.	No adjustment necessary. The cited Order in the <i>Nautilus</i> proceeding pertains only to Class I renewables, not SRECs or Class II renewables. Further, PSE&G's analysis is consistent with this Order, as it increases from 2017 to 2019, and then gradually decreases.	N/A

Given the flaws in Rate Counsel's recommendations summarized above and more fully described in Mr. Gabel-Frank's rebuttal testimony, the BPU should discredit Rate Counsel's CBA recommendations and analysis, and credit the Company's analysis. Nevertheless, regardless of which party's CBA analysis the BPU accepts, it is undisputed that the CEF-EE Program is cost-effective. The BPU should approve the Program.

**C. PSE&G Revised CBAs, After Making Certain Adjustments Proposed By Rate Counsel, Still Demonstrates That The Program Is Plainly Cost-Effective.**

In his rebuttal testimony, PSE&G expert Gabel-Frank made several minor adjustments to the CBA provided with the Company's initial filing based upon the recommendations of the Rate Counsel witnesses and other factors.<sup>152</sup> More specifically, Mr. Gabel-Frank:

- added the time value of on-bill repayment loans to participants in the PCT, PAC, and RIM tests;
- updated the source used to determine SO<sub>2</sub> and NO<sub>x</sub> emission damages and also updated the GDP deflator used to convert the forecasts from real dollars into nominal dollars;
- updated the calculation of economic multiplier benefits to capture CEF-EE Program expenditures as a cost to ratepayers and the economy; and
- adjusted the discount rate used to calculate the net-present value in the SCT to 3.0%.

Based upon the alterations described above, the updated CBA results, for each test, by sector and for the CEF-EE portfolio as a whole, are set forth below:<sup>153</sup>

	SCT	TRC	PC	PAC	RIM
Residential Programs	4.3	1.1	12.2	1.4	0.7
C&I Programs	4.5	1.1	5.3	1.5	1.0
Low Income Programs	1.8	0.4	n/a	0.4	0.3
<b>Total Portfolio</b>	<b>4.3</b>	<b>1.0</b>	<b>6.7</b>	<b>1.4</b>	<b>0.9</b>

The following table illustrates the changes in CBA score for each test for by sector, and for the CEF-EE portfolio as a whole, between the initially filed CBA and updated CBA. Positive numbers represent increases in cost-effectiveness; negative numbers represent decreases.<sup>154</sup>

<sup>152</sup> PS-7, Gabel-Frank rebuttal testimony, p. 5, l. 9-10.

<sup>153</sup> *Id.* at p. 31, Table 2.

	SCT	TRC	PC	PAC	RIM
Residential Programs	0.5	0.0	0.2	-0.1	0.0
C&I Programs	0.8	0.0	0.2	-0.2	-0.1
Low Income Programs	0.0	0.0	n/a	0.0	0.0
<b>Total Portfolio</b>	<b>0.7</b>	<b>0.0</b>	<b>0.2</b>	<b>-0.1</b>	<b>0.0</b>

As shown above, the CEF-EE filing still screens as cost-effective in the SCT, the TRC, the PCT, and the PAC test. The results of each of these tests illustrate that the CEF-EE filing generates benefits that exceeds costs, would be a good investment, and is beneficial to the state. Finally, the RIM test shows acceptable value from a ratepayer perspective.<sup>155</sup> The BPU should approve the cost-effective CEF-EE Program.

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<sup>154</sup> *Id.* at p. 31, Table 3.

<sup>155</sup> *Id.* at p. 32, l. 1-4.

**III. AS EVIDENCED BY THE SUCCESSFUL USE OF DECOUPLING IN THE STATES ACHIEVING SAVINGS LEVELS AT OR ABOVE NEW JERSEY'S AMBITIOUS TARGETS, DECOUPLING IS THE MOST EFFECTIVE MEANS TO ENCOURAGE, AND ACHIEVE, ENERGY EFFICIENCY.**

Most fundamentally, decoupling effectively removes a utility's disincentive to permit, let alone encourage, the earnings penalty associated with reduced throughput, given traditional utility rate design. It is thus no coincidence that those states that achieve the most energy reductions, including levels at or above the CEA targets, have all adopted revenue decoupling. Moreover, revenue decoupling is consistent with both New Jersey precedent and the CEA. The BPU should approve PSE&G's proposed GEM.

**A. The GEM Effectively Removes The Utility's Throughput Disincentive To Invest In Energy Efficiency, While Maintaining The Utility's Incentive To Support Economic Growth And Service New Customers.**

The operation of the GEM is clearly explained in Hansen's direct testimony.<sup>156</sup> Through base rate cases like the one PSE&G recently completed in October 2018, PSE&G establishes rates designed to collect a specific amount of revenue from customers (often referred to as the utility's revenue requirement), based on the test-year number of customers and energy usage by those customers (the customers and usage per customer are referred to as "billing determinants"). It is inevitably the case that the actual revenue PSE&G records will vary from the revenue requirement set in the Company's most recent rate case, due to both changes in the number of customers served and changes in use per customer. Changes in energy use may be due to variability in weather, increases in appliance and home energy efficiency, and variations in economic conditions in and around PSE&G's service territory. Since PSE&G, like most electric and gas delivery utilities, recovers a portion of its fixed costs through volumetric rates, a

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<sup>156</sup> PS-8, Hansen direct testimony, especially pp. 7-22.

reduction in volumetric sales (*i.e.*, reduced throughput) that is not accompanied by a reduction in fixed costs (*e.g.*, reduced throughput through increased energy efficiency) reduces revenue and profits, and directly compromises the utility's opportunity to earn its allowed return.

PSE&G's GEM proposal is to record the difference between actual revenues and the level of "allowed" revenues (sometimes referred to as "GEM revenues") established in the recently-completed base rate case. For purposes of the GEM adjustment, "allowed" revenues are a product of allowed revenue per customer (established in the base rate case, and adjusted in future base rate proceedings) and the actual number of customers served. The utility either recovers or refunds the difference between the GEM "allowed" revenue and actual revenue in the following year, with two-way interest at the 2-year U.S. Treasury rate plus 60 basis points.<sup>157</sup> By providing for the recovery -- or refund -- of this deferred difference, the GEM decoupling mechanism eliminates the variability in revenue due to variations in customer usage levels, regardless of the cause, but retains variability in revenue due to the number of customers served, which has the salutary effect of incenting the Company to support economic growth and provide service to new customers.<sup>158</sup> More familiarly, of course, because the GEM severs the link between PSE&G's sales and revenues that exists via its rate designs, the GEM removes PSE&G's disincentive to promote conservation and energy efficiency. In addition, the GEM

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<sup>157</sup> *Id.* at p. 10, l. 8-12.

<sup>158</sup> As Mr. Hansen pointed out during cross-examination, "one of the important factors of having a revenue per customer decoupling mechanism, is that, as you increase the number of customers served, total allowed revenue does increase. So if the only thing that changes relative to rate case test [year] values is more customers are served, deferrals don't happen, they're zero. So that gain by promoting growth and increasing number of customers served is retained by the utility." 2T, p. 28, l. 25 to p. 29, l. 10.



removes PSE&G's incentive to increase usage per customer.<sup>159</sup>

The mechanics of the GEM, and the reasons for those mechanics, are detailed in Mr. Hansen's direct and rebuttal testimony and in his live testimony, and will be summarized rather than repeated at length here. Among other things, Mr. Hansen has explained, and the record clearly supports, the following:

- Calculation And Purpose Of The GEM Deferral. Mr. Hansen described the simple equation used to calculate the deferral, on a customer group and a month by month basis, and explained how the GEM weather normalizes PSE&G's distribution revenue, "and also adjusts for any other factors that result in a change in usage per customer versus the test-year usage per customer used in setting the base rates";<sup>160</sup>
- Treatment of Differing Rate Classes. Mr. Hansen explained how the GEM is applied on a rate class-by-rate class basis, with: (1) the GEM applied only to customers in those rate classes that account for large amounts of distribution base rate revenues from volumetric and demand charges, ensuring that individual customers will experience *de minimis* impacts from efficiency activities resulting in small percentage usage decreases; and (2) the GEM adjustment charge is based on a demand charge for the demand-based electric commercial and industrial service classes, and based on an energy charge for all other rate classes;<sup>161</sup>
- Other Incentives. In addition to the well-known feature of removing the utility's disincentive to support conservation, there are other beneficial impacts on stakeholders' incentives. For example, the GEM has no negative impact on a utility's incentive to behave efficiently and minimize costs, since costs have absolutely no impact on the GEM deferral.<sup>162</sup> Similarly, because each customer uses a very small percentage of the total customer group-level usage or demand, as noted above, a customer's decision to conserve should

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<sup>159</sup> PS-8, Hansen direct testimony, p. 8, l. 14 to p. 9, l. 10.

<sup>160</sup> *Id.* at pp. 9-10.

<sup>161</sup> *Id.* at pp. 7-8, 16-21; 2T, p. 29, l. 10 to p. 31, l. 9.

<sup>162</sup> PS-8, Hansen direct testimony, p. 5. Whether GEM is in place or not, each dollar saved goes to the utility's bottom line, and the benefits the Company can expect to realize from operating efficiently are not changed by implementing the GEM. Moreover, when asked in discovery to provide any analysis or studies to support his claim that a decoupled utility would have a disincentive to operate efficiently, Rate Counsel witness Dismukes could not provide any supporting materials. See Dr. Dismukes' response to PS-RC-DD-43.

not be negatively affected by the presence of the GEM given a participating customer cannot conserve enough energy to affect the rate that customer pays the following year. And finally, the GEM proposal removes the utility's disincentive to support distributed generation technologies such as rooftop solar, battery storage, and other technologies that may reduce customer bills by more than they reduce utility costs.<sup>163</sup>

- Rate Stability, Prevention of Seasonal Deferrals. Mr. Hansen explained in his direct testimony how the use of monthly rather than yearly "revenue per customer" factors properly aligns allowed and actual revenue across months, preventing seasonal deferrals (positive or negative).<sup>164</sup>
- Protecting Customers By Returning Over-recoveries. Mr. Hansen discussed the likelihood and reasons that the GEM would lead to charges or to credits. While recognizing that the ostensible purpose of the GEM is to remove the Company's disincentive to promote energy efficiency and thus could be "expected" to result in charges, Mr. Hansen explained that there are plainly circumstances and futures under which GEM will serve to benefit customers and protect against excessive utility revenues, due to things like, but certainly not limited to, weather extremes, electric vehicle adoption, and economic growth.<sup>165</sup>
- Protecting Customers With A Rate Change Cap and Earnings Test. While there is no limit on GEM credits (that is, no matter how much hotter than normal the summer, customers will be made whole for the excess usage the following year), GEM charges are capped at 6.5 percent of allowed distribution revenues, which corresponds to a significantly lower percentage cap on customers' overall electric and gas bills. This is a soft cap, meaning charges in excess of 6.5 percent will be recovered in a future period. In addition, an earnings test ensures that customers will not be charged when PSE&G is earning above its allowed ROE levels, consistent with the Infrastructure Improvement Program protocols.<sup>166</sup>

For PSE&G, the lost revenues associated with the reductions in energy use that are set forth in the CEF-EE Program and mandated by the CEA are very real. For example, the lost

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<sup>163</sup> PS-8, Hansen direct testimony, pp. 5-6.

<sup>164</sup> *Id.* at p. 11.

<sup>165</sup> *Id.* at p. 14, l. 2-10; 2T, pp. 34-35, 46-47. As Mr. Hansen noted at the evidentiary hearing: "[S]uppose electric vehicle adoption rates rise significantly, under current rates the utility would over-recover their distribution costs as approved in the rate case due to the rate design and the significant increases in usage, and the GEM would return those revenues to customers." 2T, p. 34, l. 13 to p. 35, l. 3.

<sup>166</sup> PS-8, Hansen direct testimony, p. 21, l. 13 to p. 22, l. 8; 2T, p. 36, l. 1-7, p. 81, l. 3 to p. 82, l. 1.



revenue impact from CEF-EE just through 2024 is \$166 million.<sup>167</sup> If lost revenues from the Program are deducted from the Company's revenue requirement, its realized return on equity for its CEF-EE investment is approximately 4% through 2024, well below its proposed allowed return of 9.60%.<sup>168</sup> The lost revenues from CEF-EE will also have a significant impact on PSE&G's electric and gas distribution ROE, dropping it 71 basis points by 2024.<sup>169</sup> Rate Counsel witness Dismukes does not dispute that the usage reductions set forth in the CEF-EE Program will have a negative impact on the Company's ability to earn its allowed ROE.<sup>170</sup>

The GEM offsets the Company's lost revenues that will naturally result from the required, significant expansion of its energy efficiency initiatives, while at the same time containing the appropriate customer protections. The BPU should approve the GEM in the manner set forth in PSE&G's filing.

**B. The Record Is Clear That The States Achieving Savings Levels At Or Above New Jersey's Ambitious Targets Have Done So Using Decoupling, While The Alternative LRAM Approach Is Plainly Not As Effective.**

The record is replete with unrebutted evidence confirming that decoupling mechanisms are and have been in place in those states achieving the high level of energy savings required under the CEA. PSE&G's incentive to implement and successfully run energy efficiency programs, like any other utility recovering fixed costs through volumetric rates, is affected by the fact that the success of those programs, under standard rate design, has a detrimental effect on the Company's financial health. A report by ACEEE reached the following conclusion:

Our analysis of recent data shows that states achieving the highest

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<sup>167</sup> PSE&G response to RCR-POL-12; PS-6, Swetz rebuttal testimony, p. 9, l. 8 to p. 10, l. 2.

<sup>168</sup> PSE&G response to RCR-POL-12; PS-6, Swetz rebuttal testimony, p. 10, l. 13-15.

<sup>169</sup> PSE&G response to RCR-POL 36 and RCR-POL-38.

<sup>170</sup> 2T, p. 152, l. 19 to p. 153, l. 19.

energy savings are those with a comprehensive strategy based on the right business model and long-term energy efficiency targets aligned with that model. Energy savings targets are established through specific annual and longer-term targets for cost-effective energy efficiency (*i.e.*, an EERS). Complementary performance incentives and decoupling policies play a critical role in elevating utilities' interest in achieving such targets. Furthermore, those complementary policies are likely essential for sustaining utility interest in capturing energy efficiency resources over time.<sup>171</sup>

The evidence presented by Mr. Hansen regarding the prevalence, and success, of decoupling programs around the country was both very specific and very broad. In his direct testimony, Mr. Hansen described independent evaluations he performed “on behalf of all stakeholders” of specific natural gas revenue decoupling mechanisms here in New Jersey, as well as an electric revenue decoupling mechanism at Portland General Electric in Oregon. He also cited another recent independent evaluation of decoupling in Washington (Puget Sound Energy). These evaluations were all favorable and supportive of continuing the decoupling programs.<sup>172</sup> In his rebuttal testimony, in response to Rate Counsel’s misleading claims based on the “percentage of IOUs [investor-owned utilities]” using decoupling, Mr. Hansen demonstrated that: (1) based on data supplied by Rate Counsel witness Dismukes, a significantly greater percentage of utility customers around the country (40% of electric customers and 47% of gas customers) are served under decoupled rate structures than Rate Counsel’s presentation would show; (2) most states with an energy efficiency resource standard have decoupling; and (3) the

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<sup>171</sup> PS-8, Hansen direct testimony, p. 3 (citing Molina, M. and Kushler, M. (2015), Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future. American Council for an Energy Efficient Economy) (emphasis added).

<sup>172</sup> *Id.* at pp. 4-5 (citing A Review of Distribution Margin Normalization as Approved by the Oregon Public Utility Commission for Northwest Natural, March 2005; An Evaluation of the Conservation Incentive Program Implemented for New Jersey Natural Gas and South Jersey Gas, March 2009; and Peach, H.G., Thompson, M., and Joseph, J., Three Years of Decoupling: An Independent Third-Party Evaluation of Puget Sound Energy’s Electric and Natural Gas Decoupling Mechanisms (2016)).

states with the highest energy efficiency savings almost always have approved revenue decoupling. Indeed, Mr. Hansen presented unrebutted data and testimony showing that with respect to electric utilities, the top nine states, and 17 of the top 20 states, ranked by energy efficiency savings also have approved decoupled rate structures. Similarly, it is not contested that all of the states with a savings percentage comparable to New Jersey's ambitious 2% goal for electric consumption (Vermont, Rhode Island, Massachusetts, California, and Connecticut) all have decoupling. Likewise for gas, eight of the top 10 states by energy efficiency savings have approved revenue decoupling.<sup>173</sup>

Ms. Levin, representing several major environmental groups, confirmed in her rebuttal testimony both that decoupling is on the rise in the country, and that the most successful states in the country in terms of energy savings have decoupled utility revenues from sales. More specifically, Ms. Levin notes that NRDC found that 29 electric utilities were decoupled in 2013. As of December 2018, 42 electric utilities are now decoupled (39 investor-owned and 3 public utilities) across 16 states and D.C. This represents a 45 percent increase over that period of time. According to Ms. Levin, decoupled electric utilities serve over 40 percent of all customers with investor-owned utilities, up from a little less than 25 percent five years ago.<sup>174</sup>

In light of the foregoing, it should therefore be no surprise that the group of nationally-recognized environmental organizations that have intervened in this case have come out four-square in favor of decoupling in general and the GEM proposal in particular. As Mr. Hansen noted in his direct testimony, the NRDC has long-supported revenue decoupling as a means of

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<sup>173</sup> PS-9, Hansen rebuttal testimony, pp. 12-14.

<sup>174</sup> EELC-2, Levin rebuttal testimony, p. 9, l. 5-11.

addressing utility disincentives to promote conservation.<sup>175</sup> As Ms. Levin stated in her direct testimony:

I support the approval of a decoupling mechanism for PSE&G . . . Decoupling – or breaking the link between a utility’s sales and revenue – will be an essential element of meeting the targets laid out by PSE&G in this Clean Energy Filing.<sup>176</sup>

Mr. Hansen and Ms. Levin also agree that decoupling is superior to a lost revenue adjustment mechanism (“LRAM”). According to Mr. Hansen’s direct testimony, unlike decoupling:

- LRAMs do not address the utility’s incentive to increase sales;
- LRAMs may lead to increased contention regarding the measurement of conserved sales or demand, since each additional conserved kWh, kW, or therm is an additional cost to be recovered from customers;
- LRAMs may cause a utility to avoid offering programs for which the savings cannot be accurately measured;
- LRAMs may lead to a utility advocating for rules that negatively affect competitors within the energy efficiency space, to minimize the impact on customer sales from non-utility programs;
- LRAMs may ignore revenue losses from distributed generation, thus giving the utility a disincentive to support growth in renewables;
- LRAMs are not symmetric -- they only lead to rate increases. For example, an LRAM surcharge could occur following a year in which an electric utility successfully implemented conservation programs and overall sales were above expected levels due to hot summer weather. In contrast, the GEM would

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<sup>175</sup> PS-8, Hansen direct testimony, p. 6.

<sup>176</sup> EELC-1, Levin direct testimony, p. 6.

produce a rate decrease following a summer with high sales due to hot weather.<sup>177</sup>

Ms. Levin similarly concludes that LRAMs: (1) do not eliminate the utility's incentive to promote increased usage; (2) will lead to increased litigation and resources over the measurement and verification process; and (3) would prevent the utility from being a partner in non-utility energy efficiency initiatives.<sup>178</sup> In addition, Ms. Levin's rebuttal testimony contains a table demonstrating that decoupling is much more prevalent in states that have successfully reduced customers' electric usage than are LRAMs. The top nine states in terms of electricity savings (as a percent of retail sales) have decoupling.<sup>179</sup> Of the top 17 states, 16 have decoupling (94%) and just one has approved a LRAM.<sup>180</sup>

The BPU should follow suit and adopt revenue decoupling, in the form of PSE&G's GEM, to help the State meet the aggressive energy reduction targets in the CEA.

### **C. The GEM Is Consistent With New Jersey Precedent And The CEA.**

It cannot genuinely be disputed that the CIP, a revenue decoupling mechanism employed by NJNG and South Jersey Gas, is indeed a decoupling mechanism that is more like the GEM than it is different.<sup>181</sup> Mr. Hansen has established the numerous, significant similarities, as well as the more insignificant differences.<sup>182</sup> Mr. Hansen in particular established that the existence

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<sup>177</sup> PS-8, Hansen direct testimony, p. 26, l. 11 to p. 27, l. 17.

<sup>178</sup> EELC-2, Levin rebuttal testimony, p. 6, l. 1 to p. 7, l. 19.

<sup>179</sup> *Id.* at p. 6.

<sup>180</sup> *Id.*

<sup>181</sup> PS-8, Hansen direct testimony, pp. 22-25.

<sup>182</sup> *Id.* at pp. 22-24. In this portion of his testimony, Hansen discussed, among other things, (1) the "two-way" nature of the GEM and CIP, versus LRAMs, which only make adjustments in the utility's favor, and allow the utility to retain excess revenues achieved when usage per customer increases; (2) the fact that both mechanisms use a per-customer deferral calculation and include the effect of weather; and (3) the fact that there is an earnings test applied to the entire deferral. As also discussed by Mr. Hansen, the

of a “BGSS Savings Test” under the CIP does not render the mechanism fundamentally different than GEM. In un rebutted pre-filed testimony, Mr. Hansen demonstrated that this test, which presumably ensures that utility customers will only be assessed a decoupling charge when the utility demonstrates supply cost savings, only applies to a fairly small fraction of the CIP deferral for NJNG and SJG.<sup>183</sup> In other words, the large majority of the effect of the CIP mechanism, and the overall impact on customers, would be very similar to the CIP impact if the Board authorizes the GEM.

Similarly, there can be no serious argument that the GEM is inconsistent with the CEA. A decoupling mechanism like the GEM is plainly authorized under the CEA and the cross-referenced section 13 of the 2007 Regional Greenhouse Gas Initiative (“RGGI”) statute, which expressly authorizes “decoupling” mechanisms.

The CEA specifically authorizes utility recovery for, among other things, “the revenue impact of sales losses resulting from implementation of . . . energy efficiency” (N.J.S.A. 48:3-87.9(e)(1)), which “shall be determined by the Board pursuant to section 13 of P.L. 2007, c. 340 (C.48:3-98.1),” often referred to as the “RGGI section.” That statute, which is thus expressly deemed to govern cost recovery under the CEA, including the recovery of lost revenues, is in turn plain that proper “ratemaking treatment” may include placing “appropriate technology and program cost investments in the respective utility’s rate base,” or “recovering the utility’s technology and program costs through another ratemaking methodology approved by the board, . . .” In addition, the RGGI provision continues, “[a]ll . . . public utility investment in energy

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differences include some that actually make the CIP less customer-friendly (e.g., an adjustment mechanism that allows total allowed revenue to increase by more when especially large commercial customers are added to the system).

<sup>183</sup> *Id.* at pp. 24-25.

efficiency . . . programs may be eligible for rate treatment approved by the board, including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas . . .”<sup>184</sup> Rate Counsel witness Dismukes acknowledges that the GEM would decouple utility revenue from the sale of electricity and gas.<sup>185</sup> Finally, under the “definitions” section of the RGGI statute, N.J.S.A. 48:3-98.1.d., “program costs” means “all reasonable and prudent costs incurred in developing and implementing energy efficiency . . . programs approved by the board,” which “costs shall include a full return on invested capital and foregone electric and gas distribution fixed cost contributions associated with the implementation of the energy efficiency [or] renewable energy programs . . .” (emphasis added).

The plain language of the CEA also supports decoupling. The GEM is a means to recover, as the CEA states, “all reasonable and prudent costs. . .including but not limited to. . .the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction schedules[.]”<sup>186</sup> Clearly, Rate Counsel witness Dismukes’ interpretation that this language only permits an LRAM is incorrect.<sup>187</sup> Even assuming, *arguendo*, that the GEM is not a means to recover such lost revenues, the CEA’s list of items for which utilities may petition the BPU is preceded by the phrase “including but not limited to.”<sup>188</sup> Thus, the CEA does not exclusively endorse an LRAM while discriminating against all other rate design mechanisms. The CEA plainly authorizes the BPU to adopt revenue decoupling in the form of the GEM.<sup>189</sup>

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<sup>184</sup> N.J.S.A. 48:3-98.1.b. (emphasis added).

<sup>185</sup> 1T, p. 140, l. 22 to p. 141, l. 1.

<sup>186</sup> N.J.S.A. 48:3-87.9(e)(1).

<sup>187</sup> RC-7, Dismukes direct testimony, p. 30, l. 5-18.

<sup>188</sup> N.J.S.A. 48:3-87.9(e)(1).

<sup>189</sup> Mr. Hansen and Ms. Levin agree that a decoupling mechanism like the GEM is consistent with the CEA. See 2T, p. 36, l. 13 to p. 41, l. 15; EELC-2, Levin rebuttal testimony, p. 3, l. 20 to p. 4, l. 22.

Lastly, Rate Counsel witness Dismukes believes that the GEM is unnecessary because the CEA contains performance incentives that are sufficient, without more, to encourage utilities to promote energy efficiency.<sup>190</sup> His position is incorrect. The CEA separately addresses performance incentives and the removal of disincentive via lost revenue recovery.<sup>191</sup> Both are attainable under the CEA. Moreover, as Ms. Levin describes: “Making energy efficiency work for utilities is often portrayed as a three-legged stool.” The three legs of the stool are: (1) recovery of program and administrative costs; (2) recovery of lost revenues; and (3) inclusion of incentives. Neither the first nor the third leg of the stool addresses the utility’s incentive to sell more energy. Only the GEM can remove this incentive.<sup>192</sup> Mr. Hansen agrees with Ms. Levin.<sup>193</sup>

For the reasons set forth above and in the hearing record, the BPU should remove the disincentive for the Company to engage in energy efficiency, and approve the GEM.

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<sup>190</sup> RC-7, Dismukes direct testimony, p. 29, l. 17 to p. 30, l. 4; 2T, p. 120, l. 13-20.

<sup>191</sup> N.J.S.A. 48:3-87.9(e)(1)-(2).

<sup>192</sup> EELC-2, Levin rebuttal testimony, p. 7, l. 20 to p. 9, l. 4.

<sup>193</sup> 2T, p. 55, l. 12 to p. 56, l. 2.

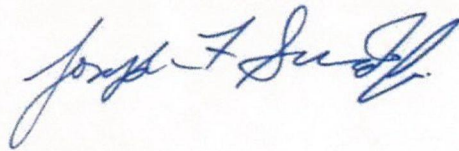


**CONCLUSION**

Accordingly, Public Service respectfully requests that the Board issue an Order approving the CEF-EE Program, in its entirety.

Respectfully submitted,

PUBLIC SERVICE ELECTRIC AND  
GAS COMPANY

A handwritten signature in blue ink, appearing to read "Joseph F. Accardo Jr.", is positioned above a horizontal line.

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DATED: May 17, 2019

## EXHIBIT A

### Public Hearing Speakers In Favor Of CEF-EE

<u>Speaker</u>	<u>Affiliation</u>
1. Alexander, Karen	President, NJ Utility Shareholders Association
2. Austen, Phil	VP of Commercial Energy Division, ICF
3. Banihani, Leila	VP of Operations, CMC Energy Services
4. Barbagallo, Leslie	DNV GL
5. Bowen, Mark	Sr. VP, Franklin Energy
6. Burke, Patrick	Plant Engineering Manager, Morristown Medical Center
7. Cain, Howard	Project Development Administrator, Camden Iron and Metal
8. Campbell, Bruce	Director of Regulatory Affairs, Cpower
9. Cantrell, Jeanne	Governmental Relations with Signify
10. Chirichella, Joseph	President, Deborah Heart & Lung
11. Churchelow, Tom	Sr. Director Gov't Affairs, NJUA
12. Coffey, Jennifer	Executive Director, Association of NJ Environmental Commissions
13. Connolly, Shawn	VP of University Facilities, Montclair State University
14. Cooper, Darrel	Sr. Director, Aurobindo Pharma USA
15. Coria, Michael	Director of Sustainability, Rutgers University
16. Counihan, Richard	Head of Energy Regulatory Affairs for Google
17. Deora, Tanuj	VP of Market Development, Simply Energy
18. Desai, Tejas	VP at Willdan, recently merged with Lime Energy
19. Doll, Dennis	President and CEO of Middlesex County Water
20. Doss, Michael	Chief Facilities Officer, Christian Health Center
21. Dzubay, Tamara	Regulatory Affairs Manager, Ecobee
22. Eddy, Walter	Senior Director, Facilities Management Planning and Construction, Rider University
23. Ehrlich, Caroline	Chief of Staff and Chief Sustainability Officer, Woodbridge
24. Fischetti, Michael	CEO of Concord Energy
25. Flynn, Marty	Chief of Staff, Hamilton Twp.
26. Ford, Erick	Executive Director, NJ Energy Coalition
27. Formanek, Mike	New Bridge Medical Center
28. Gilson, John	Assistant VP of Operations, CarePoint Health
29. Gusciroa, Reed	Mayor, Trenton
30. Hallock, Chip	President and CEO, Newark Regional Business Partnership
31. Hennesy, Karen	Director at Nexant
32. Hogan, Robert	Director of Facilities for Union County College
33. Hogle, Jim	VP of Facilities Management, RWJ Barnabas
34. Kahre, Milind	Princeton Healthcare
35. Kass, Lloyd	Sr. VP, Lime Energy
36. Kauffman, Brian	Mgr. Of Regulatory Affairs, Enel X North America
37. Keenan, Jerry	Executive VP of New Jersey Alliance for Action
38. Kerwin, Mike	President and CEO, Somerset County Business Partnership
39. Lempert, Liz	Mayor of Princeton
40. McLaughlin, Kristin	Mayor of Hopewell Township
41. Miller, Peter	Facilities Mgr., National Business Park
42. Mulcahey, Robert	VP of Facilities, Hackensack Meridian Health

<u>Speaker</u>	<u>Affiliation</u>
43. Nelson, Sean	Project Manager, EVCO Mechanical
44. Nesheiwat, Amanda	Environmental Director, Secaucus
45. Nochimson, Michael	Deputy Mayor, Verona
46. Poole, Anne	President, NJ Environmental Lobby
47. Ryan, Edward	Owner, Greenlife Energy
48. Schatz, Sam	Managing Director, Aerofarms
49. Schmidt, Christine	Councilwoman, Caldwell
50. Schoeber, Andrew	Director of Engineering, St. Peters University Hospital
51. Seelaus, Tim	President, EMC Development Company
52. Selverian, Rich	President, MaGrann Associates
53. Sheehan, Bill	Hackensack Riverkeeper
54. Stern, Zev	CEO of Green Light Energy Conservation LLC
55. Tedesco, Jim	Bergen County Executive
56. White, Tim	VP of Board, Meadowlands Regional Chamber of Commerce
57. Wolbert, Rich	Business Administrator/Public Safety Director, Beverly City
58. Woodward, Jeff	Director of Solutions Marketing, Tendril

Public Service Electric and Gas Company  
Case Name: CEF-EE  
Docket No(s): GO18101112 and EO18101113

Response to Discovery Request: S-PSEG-EE-ENE-0019  
Date of Response: 2/27/2019  
Witness: Reif, Karen  
IT CRM and Work Mgmt Descriptions

Question:

Re: Attachment 1, Direct Testimony pg. 16

Please provide a narrative explaining the anticipated enhancements to PSE&G's customer and work management systems from the proposed IT systems.

Attachments Provided Herewith: 0

Response:

The IT enhancements proposed in the Direct Testimony of Karen Reif include enhancements to the existing customer relationship management (CRM), self-service web, and work management systems. These enhancements will be used exclusively to support the execution and delivery of the CEF-EE program.

Overall, these enhancements will promote improved customer service, improve customer satisfaction, and raise participation rates by reducing market barriers. The enhancements will have the following benefits to customers and the program-at-large:

- Customer: Enhancements to the Company's CRM and self-service web systems will allow customers to access energy efficiency program information (either through a customer service representative or the PSEG website) including past participation, eligibility, recommendations or analysis on energy usage, and information on status of ongoing projects. These enhancements will leverage the existing CRM system already in place.
- Work Management: Enhancements to the Company's existing work management system will allow work orders for CEF-EE to be managed and costs properly allocated. The system will allow for customers to receive high quality service, including the scheduling, routing, and cancellation of work orders. Currently, the existing EE programs do not utilize the PSE&G work management system as the work has primarily been done by outside contractors and the work done internally has been small enough to be managed outside of a work management system. However, this approach cannot support the proposed CEF-EE program given the size and number of customers. This enhancement will leverage the existing work management system already in place.



Below are more technical descriptions of the enhancements to be made:

	Enhancement anticipated
Customer: CRM and self-service website	<ul style="list-style-type: none"><li>• To enable Customer Service Representatives (CSR) to have full view of the program details and manage programs;</li><li>• To integrate internal CRM system and third-party vendor CRM systems to have a fully integrated data flow across systems and to access information about which programs customers have participated in and shown interest in when communicating with customers;</li><li>• To enhance the CSR Screens and dashboards to create additional features specifically supporting the CEF-EE program, such as sending customer communications;</li><li>• To enhance the self-service website to allow customers to view the program information, eligibility and enrollment, and integration of marketplace and fulfillment functionality.</li></ul>
Work Management System	<ul style="list-style-type: none"><li>• To enhance existing Work Management Module to accommodate the order routing and execution for all relevant EE orders;</li><li>• To enhance functionality to accommodate re-scheduling, re-routing, and cancellation of work orders related specifically to the CEF-EE program.</li></ul>

Public Service Electric and Gas Company  
Case Name: CEF-EE  
Docket No(s): GO18101112 and EO18101113

Response to Discovery Request: S-PSEG-EE-ENE-0020  
Date of Response: 2/27/2019  
Witness: Reif, Karen  
IT Build and IT Run - Description

Question:

Re: Response to S-PSEG-EE-ENE-10

Please provide a detailed description of what is included in each of the eleven subcategories included in the IT Development and IT Run costs.

Attachments Provided Herewith: 1

S-PSEG-EE-ENE\_0020\_CEF-EE IT Subcategory Narratives.xlsx

Response:

Please see the schedule attached for a description of the eleven subcategories included in the IT Development and IT Run costs.