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State of New Jersey  
DIVISION OF RATE COUNSEL  
140 EAST FRONT STREET, 4<sup>TH</sup> FL  
P.O. BOX 003  
TRENTON, NEW JERSEY 08625

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STEFANIE A. BRAND  
Director

August 28, 2019

**Via Hand Delivery and Electronic Mail**

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

FORWARD  
CASE MANAGEMENT  
2019 AUG 29 P 2:07  
BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

**Re: Public Service Electric and Gas Company, Notice of Sale of Real Property, Block 1800, Lot 8, 428 Montclair Avenue, Borough of Pompton Lakes, Passaic County, New Jersey BPU Docket No. EM19070773**

Dear Secretary Camacho-Welch:

Please accept this letter (original and 10 copies) setting forth the position of the Division of the Rate Counsel (“Rate Counsel”) in the above-captioned matter. Rate Counsel does not object to the sale of the above-referenced property by Public Service Electric and Gas Company (“PSE&G” or the “Company”). However, Rate Counsel recommends that the accounting for this sale be fully reviewed in the Petitioner’s next base rate case or other appropriate proceeding. We enclose one additional copy of this filing. Kindly date stamp and return it with our courier.

**Background**

PSE&G filed a Notice of Sale of Real Estate on June 27, 2019 notifying the Board of Public Utilities (“Board”) of the proposed sale of certain real property in the Borough of Pompton Lakes, Passaic County (the “Property”), to David and Nancy Damato for \$200,000. Notice, ¶¶ 1 & 2.

*Case mgmt*  
*A. Hoak, Esq*  
*D. Brown*  
*L. Peterson*  
*P. Krogman, Esq*  
*E. Xiao, Esq*  
*D. Van Buren, Esq*

Tel: (609) 984-1460 • Fax: (609) 292-2923 • Fax: (609) 292-4991  
<http://www.nj.gov/rpa> E-Mail: [njratepayer@rpa.nj.gov](mailto:njratepayer@rpa.nj.gov)

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PSE&G supported its Notice of Sale with certain exhibits, including the January 29, 2019 Real Estate Sales Contract, executed by the parties on January 29 and February 7, 2019, and the Addendum to Contract of Sale, executed by the parties on March 29 and May 16, 2019 (collectively, "Contract"); the May 6, 2019 updated Appraisal by Sterling DiSanto & Associates ("Appraisal"); the May 23, 2019 Affidavit of Mary Pat Spekhardt, licensed real estate broker employed by Coldwell Banker Residential; a June 14, 2019 Certification of Non-Affiliation between PSE&G and the contract purchasers ("Non-Affiliation Certification"); and the June 27, 2019 Verification of Roger J. Trudeau, Manager of Corporate Real Estate Transactions of PSEG Services Corporation, agent to PSE&G. Subsequently, on August 2, 2019, PSE&G responded to Rate Counsel's discovery requests RCR-01 through RCR-13 and Board Staff discovery requests S-ENG-01 through S-ENG-05.

PSE&G purchased the Property on December 22, 2014 for \$333,900, in order to remediate environmental contamination that had migrated from a neighboring property owned by PSE&G. *Notice, p. 1; S-ENG-02; S-ENG-04; S-ENG\_0004\_2014 Appraisal.pdf*. The Property is not a former manufactured gas plant site and is not subject to the Company's Remediation Adjustment Clause process. *Notice, ¶ 11*. PSE&G completed remediation of soil contamination and recorded a Deed Notice on the Property in May 2019, as required by the New Jersey Department of Environmental Protection ("DEP"). *Id., p. 1 & ¶ 10; S-ENG-02.f; 2019 Soil RAP.pdf; RCR-01 & -02*. The current book value of the Property is \$340,390 and its tax assessment valuation is \$328,900. *Notice, ¶¶ 7 & 9*.

PSE&G remediated the Property from 2008 through 2019, incurring \$1.4 million in remediation expenses, of which it has recovered \$115,000 through its two most recent base rate cases. *S-ENG-03; RCR-06*. PSE&G has accounted for its environmental remediation expenses by establishing a reserve in 2010 for the estimated remaining remediation costs for the Property, effectively crediting or reducing that expense in the period received. *RCR-08; S-ENG-03*. The Company proposes to record the net proceeds from the sale of the Property against that remediation reserve. *RCR-08; S-ENG-03*. PSE&G proposes to net the costs of the sale<sup>1</sup> against the proceeds from the sale. *RCR-09*.

The Property is a two-unit residential structure that has not been used by PSE&G as part of its utility system and is no longer used and useful to PSE&G. *Notice, p. 1 & ¶¶ 8 & 10*. One unit is currently rented for \$1,195 per month and the other unit is vacant. *Id.*, ¶ 8. However, the Property is not income-producing because its operation and maintenance fees and real estate taxes exceed its current rental income. *Id.*; *S-ENG-05*.

The Company has accounted for the non-remediation costs of the Property, including property taxes, depreciation and operation and maintenance expenses, by offsetting them against the rental income received for the Property, and has not included those non-remediation costs in its cost of service. *RCR-10*. PSE&G handles rental of the Property through an agreement with a third party property management company. *Id.* PSE&G proposes to offset any balance due to or from the property management company against its reserve for the environmental remediation costs for the Property. *Id.*

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<sup>1</sup> The costs of the proposed sale of the Property are approximately \$11,000, including New Jersey Realty Transfer Fee (\$935), realtor's commission (\$10,000), certificate of occupancy application fee (approx. \$50) and smoke detector certificate (approx. \$50). *RCR-09*.

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PSE&G began marketing the Property on February 14 or 15, 2017, listing it for sale with Coldwell Banker Residential Agency. *Notice*, ¶ 5; *Spekhardt Aff.* ¶ 4. PSE&G received eight or nine offers for the Property, each between \$200,000 and \$230,000, but none has yet closed, due to environmental conditions on and the industrial location of the Property. *Spekhardt Aff.* ¶ 4; *Notice*, ¶ 5; *updated Appraisal*, p. i.

The Company retained Sterling DiSanto & Associates, whose May 6, 2019 updated Appraisal opines that the Market Value of the Property as of that date was \$210,000. *Updated Appraisal*, p. ii; *see Notice*, ¶ 5. PSE&G has entered into a contract to sell the Property for \$200,000. *Notice*, ¶ 2; *Addendum to Contract of Sale*; *see Spekhardt Aff.* ¶ 6. Thus, the selling price represents approximately 95% of the fair market value of the Property based on a current independent appraisal.

#### **Applicable Board Statute and Regulations**

The applicable law for a utility conveyance of property is N.J.S.A. 48:3-7 and N.J.A.C. 14:1-5.6. The Company's Notice claims that all legal requirements under the applicable statute and regulation have been met and Rate Counsel does not object to PSE&G's claim at this time.

PSE&G's appraised value of the Property, as of May 6, 2019, was \$210,000 and its current book value is \$340,390. *Updated Appraisal*, p. ii; *see Notice*, ¶¶ 5 & 7. Accordingly, since the Property is not currently used or useful to the Company and has a net book cost not in excess of \$500,000, PSE&G may proceed in this matter by Notice to the Board rather than by Petition. *See N.J.A.C. 14:1-5.6(d)(3)*.

PSE&G has confirmed that the environmental remediation of the Property has been completed to the satisfaction of the DEP. *Notice*, p. 1 & ¶ 10; *RCR-02*; *S-ENG-*

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*02.f.* The Company has described the long-term engineering and institutional controls that must be performed and maintained on the Property, and estimated their cost to be approximately \$68,500 over the next 30 years. *RCR-01 & 03.* PSE&G will assume the responsibility for maintaining those long-term controls after the proposed sale. *RCR-04 & 05; S-ENG-02.e.* PSE&G maintains excess Pollution/Environmental Liability insurance against contingent environmental liabilities arising from the Property. *RCR-7.*

The amount of money involved in the sale of the Property is less than \$500,000, and should not adversely affect PSE&G's finances or its ability to provide safe, adequate and proper service. *Notice, ¶ 10.* There is no relationship between PSE&G and the party from whom PSE&G purchased the Property in 2014, or between PSE&G and the currently proposed purchasers of the Property, other than that of transferor and transferee. *RCR-13; Non-Affiliation Certification.*

### **Conclusion**

Rate Counsel does not object to the sale of the Pompton Lakes Property. The proposed sale will not compromise PSE&G's finances or its ability to provide safe, adequate and proper service. The Property has been remediated to the satisfaction of the DEP and the proposed sale will relieve PSE&G of the property taxes and other expenses of maintaining it. However, it is Rate Counsel's recommendation that the accounting for the proceeds of the sale and the remediation and non-remediation costs of the Property be reviewed in PSE&G's next base rate case or other appropriate proceeding directed by the Board.


Rate Counsel reserves all rights to review the Company's accounting for all costs and revenues from the acquisition, ownership, remediation and sale of the Property in

PSE&G's next base rate case or other appropriate proceeding for prudence, recoverability and allocation. Accordingly, in any Order approving the sale of the Property, Rate Counsel respectfully asks the Board to require PSE&G to meet the conditions set forth below:

1. PSE&G shall notify the Board and Rate Counsel if it anticipates any material changes in the sale of the Property.
2. Rate Counsel retains all rights to review all costs and proceeds related to the acquisition, ownership, remediation and sale of the Property in PSE&G's next base rate case or another appropriate proceeding.
3. The \$200,000 purchase price from the Property sale be credited to ratepayers through PSE&G's next base rate case or other proceeding.
4. Approval of the proposed sale of the Property does not include or imply any position as to the prudence, recoverability or allocation of costs of acquiring, owning, remediating or selling the Property.
5. This Order shall not affect nor in any way limit the exercise of the authority of the Board or of this State, in any future Petition or in any proceeding with respect to rates, franchises, service, financing, accounting, capitalization, depreciation, or any other matter affecting the Petitioner.
6. Nothing in this comment letter shall be construed to affect PSE&G's liability for Natural Resource Damages or other responsibilities or damages arising from its activities at any site or PSE&G's responsibilities or claims in any other matter arising from environmental investigation and remediation of any of its properties.

Respectfully submitted,

STEFANIE A. BRAND  
DIRECTOR, DIVISION OF RATE COUNSEL

By:   
\_\_\_\_\_  
Brian Weeks, Esq.  
Deputy Rate Counsel

c: Service List

Notice of Sale of Real Estate  
Public Service Electric and Gas  
Company Property Address:  
428 Montclair Avenue, Pompton  
Lake, NJ  
BPU Docket No. EM19070773

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

Stefanie A. Brand, Director  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625-003

Brian O. Lipman  
Litigation Manager  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625-003

Felicia Thomas-Friel, Esq.  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625-003

Brian Weeks, Esq.  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625-003

Shelly Massey, Paralegal  
Division of Rate Counsel  
140 East Front Street, 4th Floor  
P.O. Box 003  
Trenton, NJ 08625

Stacy Peterson, Director  
NJ Board of Public Utilities  
44 South Clinton Avenue  
3rd Floor, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

David Brown  
NJ Board of Public Utilities  
44 South Clinton Avenue  
3rd Floor, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

Ana Murteira, Esq.  
Senior Counsel  
PSEG Services Corporation  
80 Park Plaza, T5  
Newark, NJ 07102

Malgorzata Preus  
Sr. Corporate Real Estate  
Consultant  
PSEG Services Corporation  
80 Park Plaza, T6B  
Newark, NJ 07102