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 CASE MANAGEMENT
 2019 SEP 23 P 3:21
 BOARD OF PUBLIC UTILITIES
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September 23, 2019

Via Hand-Delivery and Electronic Mail

Hon. Aida Camacho-Welch Secretary
 New Jersey Board of Public Utilities
 44 South Clinton Avenue, 9th floor
 P.O. Box 350
 Trenton, New Jersey 08625-0350

FORWARDED
 CASE FILED
 2019 SEP 24 A 10:45
 BOARD OF PUBLIC UTILITIES
 TRENTON, NJ

**Re: In the Matter of the Petition of Soundview Paper Company, LLC to Modify the Electric and Natural Gas Societal Benefits Charge Due to Changed Circumstances
 BPU Docket Nos. GR19070813/ER19070812**

Dear Secretary Camacho-Welch:

Please accept for filing in the above-referenced matter an original and ten (10) copies of the New Jersey Division of Rate Counsel’s (“Rate Counsel”) comments regarding Soundview Paper Company LLC’s (“Soundview”) Petition (“Soundview Petition”) to modify the Societal Benefits Charge (“SBC”) and other conditions applicable to its electric and gas service provided by Public Service Electric and Gas Company (“PSE&G”) and the Joint Position set forth in the Stipulation (“Joint Position”) entered into by Soundview and the Staff (“Board Staff”, “Staff”) of the Board of Public Utilities (“BPU”, “Board”). By letter dated September 16, 2019, Soundview seeks expedited treatment of its Petition.

One additional copy is enclosed. Please date stamp it as “filed” and return it in the enclosed self-addressed stamped envelope.

*Case mgmt
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Background

Soundview is the owner and operator of a paper mill - the Marcal Mill (“Marcal Mill,” “Marcal,” or “Mill”) - located in Elmwood Park, Bergen County, New Jersey. Petition, p. 3. PSE&G presently provides electric and natural gas service to Marcal.

Recently, on January 30, 2019, Marcal experienced a devastating fire (“January 2019 Fire”) which destroyed most of its production facilities. Petition, p. 6. Prior to the January 2019 Fire, Marcal manufactured a range of paper products, such as paper towels and tissues, which were made largely from recycled paper fiber, and employed over 400 people at the Elmwood Park facility. Petition, p. 6. Marcal claims that the January 2019 Fire “significantly impacted and materially altered the operations and financial circumstances at the Mill and the welfare of the Mill’s employees.” Petition, pp. 11-12. Presently, Marcal is working to ramp up its paper-making operations on a limited scale using equipment which survived the fire, with a smaller number of employees and reduced energy usage. Petition, pp. 6-8.

Soundview claims that the Marcal Mill is in danger of closing permanently. Petition, p. 9. In addition to concerns about the cost-competitiveness of Marcal’s Mill vis-a-vis other paper mills, Soundview claims that its current financial position is even more precarious than when it sought the earlier SBC and gas rate discounts.¹ Petition, pp. 12, 19. Meanwhile, Marcal initiated an action in Superior Court against its former TPS electric supplier which terminated service after the fire, which resulted in reverting Marcal to BGS service, further adding to its energy

¹ Further, Soundview claims that in the future the anticipated PSE&G Zero Emissions Credit (“ZEC”) charge will potentially add more than \$330,000 per year to its energy costs if one paper machine is in operation, and \$540,000 in annual costs if two machines are in operation. Petition, p. 20.

costs.² Petition, p. 8. Soundview claims that the viability of restarting operations and protecting jobs at the Marcal Mill hinges on its ability to achieve significant reductions in the operating costs it incurs to manufacture paper products at the Marcal Mill. Petition, p. 9.

With this, due to the change in circumstances caused by the January 2019 Fire, Soundview sought in its Petition: (1) a reduction of at least 90% in the SBC paid for electric and natural gas service through 2022; and (2) the elimination of the condition in the 2018 Electric SBC Order that restricts Soundview from withdrawing funds from the New Jersey Clean Energy Program (“CEP”) while any SBC discount is in effect. Petition, p. 25. Notably, Soundview is considering applying for CEP funds for a contemplated natural gas fired Cogen unit. Petition, p. 22.

The Board previously approved reduction in the SBC charges applicable to Marcal’s electric and gas service in 2018 and 2015, respectively. Specifically, the Board granted Marcal a 50% reduction in the applicable SBC for electric service, and the SBC charge for gas service was reduced to only the CEP portion of the SBC, for a term expiring on December 1, 2022.³ Pursuant to the Orders granting these discounts, Marcal is prohibited from participating in SBC-

² On May 20, 2019, Soundview received a setback regarding its energy costs when its electric supplier, Constellation NewEnergy Inc. (“Constellation”), dropped Soundview’s account effective May 31, 2019, resulting in Soundview being transferred back to Basic Generation Service (“BGS”) with PSE&G. Petition, p. 8. Soundview claims this action is causing it to incur hundreds of thousands in additional monthly costs. Petition, p. 8. The TPS contract dispute is pending in litigation before the Superior Court of New Jersey, Bergen County, Docket No. BER-C-141-19.

³ See I/M/O Soundview Paper CSG and I/M/O Soundview Paper SBC, BPU Dkt. Nos. GR14111287 and GR15060659 (Order, November 16, 2015) (“Soundview Gas Order”) and In the I/M/O Soundview Paper Company, LLC for Approval of a Reduction of the Societal Benefits Charge, BPU Docket No. ER18070706 (Order, Dec. 18, 2018) (“Soundview Electric Order”). Pursuant to the Soundview Gas Order, Marcal also takes gas service pursuant to a Board-approved gas contract (CSG rate) which provides at a rate lower than PSE&G’s gas tariff rates.

funded CEP programs for the duration of the rate discount term and the reduced rates are not applicable to any future Cogen facility.⁴

Joint Position

Board Staff and Soundview (“the Joint Parties”) entered into a stipulation of settlement (“Joint Position”) which was filed on September 17, 2019. The Joint Position provides *inter alia* for a 75 percent reduction in the SBC rates applicable to Marcal’s electric and natural gas service for a term to continue until the date set for the expiration of Soundview’s existing electric and gas SBC reductions, December 1, 2022. Further, the Joint Position provides that Soundview will file a new petition to extend the term if “Soundview determines the need for an uninterrupted extension of the SBC rate based on substantially similar financial conditions underlying” the instant Petition. Joint Position, p. 3.

The Joint Position also provides that Soundview may apply for CEP funds for a cogeneration facility or “other clean energy project” while the SBC discounts are in effect. Joint Position, pp. 3-4. In addition, the Joint Position provides that if Soundview receives “significant state-funded assistance” for the Cogen unit or “other clean energy project,” then Soundview would agree to immediately terminate the discounts for the gas and electric SBC when the Cogen unit or “other clean energy project” becomes fully operational. Joint Position, p. 4.

⁴ Id.

Argument

In the past, the Board has approved reductions in the applicable SBC charge for certain customers.⁵ As stated by the Board in its Soundview Gas Order and Soundview Electric Order, the Board concluded that nothing in N.J.S.A. 48:3-60(a) shows a legislative intent that the SBC be applied to all customers at the same level, and in practice the SBC charge varies between the utilities.⁶ In support of its Petition, Soundview cites several recent cases, in addition to the Soundview CSG and SBC matters cited above, where the Board reduced the SBC charges for certain electric and gas public utility customers and permitted them to obtain SBC funding for projects.⁷ Petition, pp. 7-10. However, the criteria for approval of SBC rate reductions need to be reconciled with the provisions of N.J.S.A. 48:3-60.3 governing SBC credits and the Board's 2012 Order implementing N.J.S.A. 48:3-60.3.⁸ N.J.S.A. 48:3-60.3 ties SBC discounts to a ratepayer's past energy efficiency expenditures.

That is not to say that Soundview did not contribute to the SBC in the past.⁹ However, the contemplated SBC rate discounts are not tied to any past energy efficiency projects funded

⁵ See Soundview Gas Order, p. 4; Soundview Electric Order, p. 8.

⁶ I/M/O Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Terms and Conditions, BPU Dkt. Nos. GR10100761 and ER10100762 (Order, 8/18/11) ("Gas Discount Rate Order").

⁷ Soundview Gas Order; I/M/O Gerdau SBC, BPU Dkt. No. EW17030256 (Order, 4/25/18) ("Gerdau SBC Order"); and I/M/O Holcim SBC, BPU Dkt. No. GR14040344 (Order, 9/30/14) ("Holcim SBC Order").

⁸ I/M/O Implementation of A2528/S2344 (N.J.S.A. 48:3-60.3) and the SBC Credit Program, BPU Dkt. No. EO12100940 (Order, 12/20/12).

⁹ From 2007 to 2018, Soundview made electric SBC payments of approximately \$1 million to \$1.4 million per year, and from 2007 to 2015, Soundview made gas SBC payments of approximately \$600,000-\$650,000 per year. Petition, p. 9. After receiving a gas SBC discount at the end of 2015, Soundview made gas SBC payments of approximately \$250,000-\$260,000 per year from 2016 to 2018. Petition, p. 9. On the other hand, Soundview has obtained approximately \$420,450 in total rebates from the CEP, which is funded from SBC revenue. Petition, p. 11.

by Soundview itself. Here, there should be a linkage between credits for past energy efficiency projects and SBC discounts.

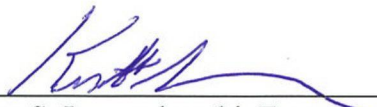
That said, if the Board approves the SBC rate reductions set forth in the Joint Position, certain conditions should be imposed on Soundview's access to programs funded by SBC charges. First, Soundview's access to any SBC funds should be capped at the amount of SBC charges collected from Soundview going forward. The term "significant" state-funded assistance" in the Joint Position should be defined as amounts in excess of SBC collections from Soundview. Further, the SBC-funded projects should be limited to Soundview's paper-making production operations. Soundview should be required to file a Petition to obtain any SBC-related funding for the contemplated Cogen facility if and when more information is available regarding its construction.

Thank you for your consideration of the within comments.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By:


Kurt S. Lewandowski, Esq.
Assistant Deputy Rate Counsel

KSL

c: Service List

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