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PLEASE REPLY TO LIVINGSTON

May 8, 2020

VIA E-MAIL

Aida Camacho-Welch, Secretary
NEW JERSEY BOARD OF PUBLIC UTILITIES
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625

**Re: IMO Petition of Public Service Electric & Gas Company for Approval of its Clean
Energy Future-Electric Vehicle and Energy Storage ("CEF-EVES") Program on a
Regulated Basis
BPU Docket No. EO18101111**

Dear Secretary Camacho-Welch:

This office represents intervenors Climate Change Mitigation Technologies, LLC ("CCMT") in the above-captioned matter. On behalf of CCMT please accept the enclosed opposition to the motion to dismiss filed by the Division of Rate Counsel on April 17, 2020. Thank you for your consideration of this matter.

Respectfully submitted,

SLOWINSKI ATKINS, LLP
Attorneys for CCMT and MSEIA

By: s/James Sherman
James Sherman

MSS/af
Enclosure

cc: All Counsel and Parties on attached Service List

***IMO Petition of Public Service Electric & Gas Company for Approval of its Clean Energy Future-Electric Vehicle and Energy Storage (“CEF-EVES”) Program on a Regulated Basis
BPU Docket No. EO18101111***

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

I/M/O the Petition of Public Service Electric)	
& Gas Company for Approval of its Clean)	
Energy Future – Electric Vehicles and Energy)		BPU Docket No. E018101111
Storage (CEF-EVES) Program)	

**Opposition of Climate Change Mitigation Technologies LLC to
The Division of Rate Counsel’s Motion to Dismiss
Certain Sub-Programs of PSE&G’s Clean Energy Future Petition
Relating to Electric Vehicles and Make Ready Infrastructure**

Climate Change Mitigation Technologies LLC (CCMT) hereby respectfully requests that the New Jersey Board of Public Utilities (Board) deny the Division of Rate Counsel’s (DRC) motion to dismiss the electric vehicle charging “sub programs” (“EV Sub-programs”) of the above-captioned proceeding. CCMT submits the following points and authorities in opposition to the motion:

PRELIMINARY STATEMENT

The official policy of the State of New Jersey is to reduce its greenhouse gas emissions (CO2) 80% below the 2006 baseline emission inventory by 2050 (80x50). New Jersey’s transportation sector now accounts for the majority of the CO2 emissions. Medium and heavy-duty diesel trucks account for the majority of the transportation sector’s CO2 emissions as well as being the major source of PM-2.5 emissions from the transportation sector. PM-2.5 emissions have been linked to, among other things, triggering asthma attacks, diminished mental capacity, autism and, most recently, increased Covid-19 mortality in New Jersey’s urban areas.

In recognition of the 80x50 societal goal and the known public health impacts on society, the State of New Jersey has undertaken a series of highly coordinated policy, legislative, and regulatory actions and initiatives to achieve the 80x50 goal. This includes most recently the adoption of the Plug-In Vehicle Act in January of this year and the publication of the revised state Energy Master Plan (EMP) last year. For the first time ever, the EMP identified reducing the CO2 emissions from the transportation sector as the primary EMP strategy. Following on this, the Board commissioned the Rocky Mountain Institute (RMI) to study the most cost-effective way to achieve the 80x50 goal. RMI produced an Integrated Energy Plan (IEP) which concluded that, with respect to the transportation sector, the least-cost way to achieve 80x50 was to put 330,000 passenger cars on the road by 2050, and to convert 50% of the public and private heavy-duty fleets and 75% of the medium-duty fleets to electric drive by 2050.

As a zero emission truck fleet project developer, CCMT has first-hand knowledge of the costs involved in developing such projects. The flagship heavy-duty EV truck program is the NJDEP VW Consent Order funding program. It pays 75% of the cost of the vehicle and charger private fleets and 100% of those costs for public fleets but it does not cover the costs of any electrical infrastructure upgrading work that may be necessary. This is precisely where the Clean Energy Future's "make ready infrastructure" sub-program comes into play because the cost of the additional electrical infrastructure work can literally make or break what is a meritorious but economically marginal project from the fleet owner's perspective at this point. Thus, the "make ready" infrastructure component of the Clean Energy Future filing is absolutely necessary to achieve the 80x50 goal.

New Jersey must now move to aggressively decarbonize its economy and transportation sector to stave off the worst consequences of climate change. The Board of Public Utilities, along

with the NJDEP, NJEDA, and other state agencies, have been charged with devising the strategies and implementing the programs to achieve the 20x50 goal. Electric utilities will necessarily play a key role in implementing the Board's strategies and programs. Given the societal stakes in play and the consequences of prematurely emasculating the Board's authority to play a major and leading role in achieving the 80x50 goal, it would be premature and highly improvident for the Board to grant the DRC's motion to dismiss without the development of a full record.

LEGAL ARGUMENT

A. The Motion is Premature and the Board Should Exercise its Right to Develop a Full Record

CCMT agrees with those petitioners and intervenors that have pointed out that the DRC Motion to Dismiss is premature and would inappropriately usurp the Board's right and power to make a decision based on a full record. Such motions to dismiss should be exercised with great caution and in rare circumstances. This matter is not appropriate for summary dismissal.

B. The "Used and Useful" Standard, even if applicable, Does not Apply to or Prohibit EV Sub-programs that are Incentives and Rebates

CCMT joins with the legal arguments of others including Atlantic City Electric (ACE) which point out that the "used and useful" standard, to the extent that it even provides the key appropriate standard for decision-making in this proceeding, would only apply to physical assets and not to the range of incentives and rebates being offered such as incentives for off-peak charging and waiver of demand charges.

With respect to the blanket contention that EV chargers located on private property are not part of the grid providing a used and useful public service, CCMT would further point out that interactive two-way vehicle-to-grid (V2G) charging, so-called "smart charging," will allow utilities to dynamically manage the combined energy storage contained in public and private fleet

vehicles for such public services as frequency regulation service and aggregated to serve as zero carbon virtual peaker plants during summertime peak load conditions. These services accessed through V2G chargers, even if located on private property or not generally accessible to the public, would certainly meet the requirements of used and useful property in a public service.

C. The Plug-In Vehicle Act

CCMT also joins with those petitioners and intervenors who point out that the Plug-In Vehicle Act, P.L. 2019, c. 362 (January 17, 2020) (PIV Act) grants the Board express authority to adopt policies and programs to achieve the goals of the PIV Act. The Board will be adopting a number of policies and programs over time to achieve the goals of the PIV Act, the first batch of which are now before the Board in this proceeding. Electric utilities will play a central role in the success of the Board's programs and there is nothing in the PIV Act to suggest any prohibition against rate-based utility administered EV programs. In fact, not only is it allowed, it is absolutely necessary to the success of the Board's vehicle electrification programs.

D. Make Ready Infrastructure

Finally, CCMT opposes the DRC Motion to dismiss the provision of "make-ready infrastructure" on the customer side of the electric meter as somehow violative of the "Main Extension Rules."

For purposes of this part of the discussion, by "make ready infrastructure" CCMT understands this phrase to be the provision of electrical service from the transformer to the customer meter and then to a concrete "pad" on which EV charging equipment will be installed, regardless of whomever may end up owning the EV charging equipment. So "make-ready infrastructure" does not include the EV charging equipment itself.

In the case of large fleets, whether public or private, the cost of upgrading the electrical infrastructure on the customer side of the meter for a fleet project can be prohibitively expensive and scuttle what is otherwise a meritorious project. The provision of make ready infrastructure for EV charging equipment is a key way in which the Board can synchronize utility-based programs with governmental programs like the VW Consent Order program which does not pay for electrical infrastructure upgrading costs. We believe the DRC Motion to Dismiss misstates the purpose of the Main Extension Rules with respect to the extension of service but, in any event, the Board has the authority to waive the Main Extension Rules to accomplish 80x50.

E. Conclusion

For all the foregoing reasons, CCMT respectfully requests that the Board deny the DRC's motion to dismiss and proceed with the development of a full record.

Respectfully Submitted,

SLOWINSKI ATKINS, LLP

Climate Change Mitigation Technologies LLC

By: s/James Sherman

James Sherman, Esq.