

Secretary Aida Camacho-Welch



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October 16, 2020

VIA ELETRONIC MAIL ONLY

Aida Camacho-Welch, Secretary
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**RE: I/M/O the Petition of Public Service Electric & Gas Co. for Approval
of its Clean Energy Future-Energy Cloud (“CEF-EC”) Program on a
Regulated Basis
BPU Docket No. EO18101115**

Dear Secretary Camacho-Welch:

Please accept this letter as the opposition of the Division of Rate Counsel (“Rate Counsel”) to the motion to intervene in the above-referenced proceeding filed by Utilidata, Inc. on October 14, 2020. For the reasons set forth below, Utilidata’s motion to intervene should be denied. Rate Counsel does not oppose participation status for Utilidata.

In ruling on a party’s motion to intervene, the Board should consider (a) the nature and extent of the movant’s interest in the outcome of the case (b) whether or not the movant’s

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interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, and (c) the prospect of confusion or undue delay arising from the movant's inclusion. N.J.A.C. 1:1-16.3(a). Utilidata's motion should be denied due to the prospect of confusion, undue delay and prejudice its intervention would cause. Id.

Petitioner Public Service Electric & Gas Company ("PSE&G") filed the instant petition on October 11, 2018, more than two years before Utilidata filed its motion to intervene. Pursuant to the procedural schedule issue by Commissioner Mary-Anna Holden on April 1, 2020, all motions to intervene were due on May 4, 2020. All parties have now filed direct testimony, and PSE&G filed rebuttal testimony on October 5, 2020. The procedural schedule calls for evidentiary hearings to begin the week of November 30, 2020. Utilidata's intervention at such a late stage of this proceeding will either cause the procedural schedule to be delayed, or if a delay is not ordered, will add confusion to the proceeding and prejudice parties such as Rate Counsel. This prospect for confusion and prejudice is particularly acute in light of Utilidata's untimely request to file testimony. See Certification of Jess Melanson, para. 16. The current procedural schedule simply does not allow time for the filing of and response to such testimony. If such testimony were filed, parties would need to be afforded the right to seek discovery on the testimony and to file a rebuttal to that testimony. Utilidata would likely seek discovery on that rebuttal testimony. This cannot be completed by November 30th. The inevitable result, therefore, will be either a delay of the evidentiary hearings or undue prejudice to the other parties. N.J.A.C. 1:1-16.3(a). Therefore, Utilidata has not met the standard for being granted intervention.

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For these reasons, Rate Counsel urges the Board to deny Utilidata's motion to intervene. Rate Counsel has no objection, however, if the Board chooses to grant Utilidata participant status.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

By: /s/ Christine M. Juarez
Christine M. Juarez, Esq.
Assistant Deputy Rate Counsel

CJ/dl

cc: Service List (*via electronic mail only*)
Utilidata, Inc. (*via electronic mail only*)

I/M/O THE PETITION OF PUBLIC
SERVICE ELECTRIC AND GAS
COMPANY FOR APPROVAL OF ITS
CLEAN ENERGY FUTURE ITS CLEAN
ENERGY FUTURE ENERGY CLOUD
("CEF-EC") PROGRAM ON A
REGULATED BASIS
BPU DKT. NO. EO18101115
SERVICE LIST

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