



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

DIVISIONS OF CLEAN ENERGY
AND ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF)
P.L. 2018, C. 17 REGARDING THE)
ESTABLISHMENT OF ENERGY EFFICIENCY AND)
PEAK DEMAND REDUCTION PROGRAMS)
PARTICIPATE AND INTERVENE)
)
IN THE MATTER OF THE PETITION OF SOUTH)
JERSEY GAS COMPANY FOR APPROVAL OF)
NEW ENERGY EFFICIENCY PROGRAMS AND)
ASSOCIATED COST RECOVERY PURSUANT TO)
THE CLEAN ENERGY ACT) DOCKET NOS. QO19010040 AND
GO20090618

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Deborah M. Franco, Esq., South Jersey Gas Company
Erin Cosgrove, Esq., for the Energy Efficiency Alliance of New Jersey

BY COMMISSIONER UPENDRA J. CHIVUKULA:

Background and Procedural History

On January 13, 2008, L. 2007, c. 340 ("RGGI Act") was signed into law based on the New Jersey Legislature's findings that energy efficiency ("EE") and conservation measures must be essential elements of the state's energy future and that greater reliance on EE and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and EE industries are essential to maximize efficiencies.

Pursuant to Section 13 of the RGGI Act, codified as N.J.S.A. 48:3-98.1(a)(1), an electric or gas public utility ("Utility" or collectively "Utilities") may provide and invest in EE and conservation programs in its service territory on a regulated basis. Upon petition, such investment in EE and conservation programs may be eligible for rate treatment approval by the Board, including a return on equity, or other incentives or rate mechanisms that decouple Utility revenue from sales of electricity and gas. Ratemaking treatment may include placing appropriate technology and program costs investments in the Utility's rate base or recovering the Utility's technology and program costs through another ratemaking methodology approved by the Board.

By Order dated June 10, 2020, the New Jersey Board of Public Utilities (“Board”) approved an EE transition framework for EE programs implemented pursuant to the Clean Energy Act, L. 2018, c. 17, including requirements for the Utilities to establish programs that reduce the use of electricity and natural gas within their territories.¹ In the June 2020 Order, the Board directed New Jersey’s electric and gas companies to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation beginning July 1, 2021.

SJG SEPTEMBER 2020 FILING

On September 25, 2020, South Jersey Gas Company (“SJG” or “Company”) filed the requisite petition with the Board (“September 2020 Petition” or “Petition”). In the Petition, the Company proposed to invest approximately \$166.9 million (investment and expenses) in its EE Program (“Program”) over a three (3) year period (July 1, 2021 through June 30, 2024). The proposed programs and associated costs are summarized in the table below:

Program [includes operations & maintenance (“O&M”) expenses]	Proposed Budget (for 3 Year Program) (millions)
Behavioral (Home Energy Reports)	\$3.1
Efficient Products	\$61.1
Existing Homes with HPwES	\$11.9
Existing Homes QHEC	\$2.5
Existing Homes Moderate Income Weatherization	\$15.9
Energy Efficient Trees	\$0.3
Multi-Family	\$6.4
Energy Solutions for Business: Prescriptive/Custom	\$3.0
Energy Solutions for Business: Engineered Solutions	\$14.9
Energy Solutions for Business: Direct Install	\$4.8
Energy Solutions for Business: Energy Management	\$0.8
Pilots (Residential Demand Response, C&I Demand Response, Innovating and Synergistic Solutions)	\$6.6
Portfolio Costs	\$6.6
Net Payments to/from Partner Utilities	\$29.1
TOTAL	\$166.9

In addition to approval of the plan to implement the Program, the Company requested approval of a cost recovery mechanism. Specifically, SJG requested authority to recover the revenue requirement associated with the costs to implement the Program, including incentives, outside services, inspections and quality control, information technology costs, and operations and maintenance (“O&M”) costs. The Company proposed to recover program costs through the Energy Efficiency Tracker (“EET”) rider of its tariff. The revenue requirement recovered through the EET would be designed to recover the annual costs of the Program, as well as true-up for any

¹ In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020 (“June 2020 Order”).

prior period over/under recovery. The Company proposed to recover lost revenues from reduced natural gas sales associated with the Program through its existing Conservation Incentive Program mechanism.

SJG estimated that the initial annual bill impact for a typical residential heating customer using 100 therms during a winter month would be an increase of \$1.27 or 0.9% for the first year of the Program.

By an Order dated September 23, 2020, the Board determined that SJG's Petition should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.² Further, the September 23, 2020 Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by October 2, 2020 and that entities file with the Board any responses to those motions by October 9, 2020.

On October 5, 2020, the Company made a supplemental filing. Subsequently on October 16, 2020, Board Staff ("Staff") issued a letter of administrative deficiency. In response to Staff's administrative deficiency letter, the Company made supplemental filings on October 19 and 20, 2020. On October 22, 2020, Staff issued a letter indicating that the supplemental filing satisfied the Minimum Filing Requirements. The 180-day period for Board review therefore began on October 20, 2020.

THE MOTIONS

Motions to Intervene

On October 2, 2020, New Jersey Natural Gas Company ("NJNG"), Public Service Electric and Gas Company ("PSE&G"), and the Energy Efficiency Alliance of New Jersey ("EEANJ") filed motions to intervene in this matter.

NJNG

NJNG stated that the Board accepted the recommendation of Staff to have the Utilities collaborate with Staff to develop program design and requirements that are complementary to, and not competitive or overlapping with, the designs and requirements of State-administered or co-managed programs and to have the Utilities collaborate to consistently implement the Utility core programs. Additionally, in areas where gas and electric services territories overlap, in addition to establishing programs that include agreed-upon program design requirements, the Utilities are required to design a program structure that results in coordinated, consistent delivery of programs among all of the Utilities and allocates costs and energy savings appropriately based on the fuel type(s) treated by EE measures, ensuring that customers do not face confusion as a result of overlapping territories and can access both electric and gas measures simultaneously, where appropriate. NJNG asserted that SJG's proposed EE Program would directly affect NJNG, as the two Utilities will need to collaborate efforts to process several of their respective EE programs. Accordingly, NJNG maintained that it should be granted full intervener status so as to avoid

² In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO19010040, Order dated September 23, 2020 ("September 23, 2020 Order").

customer confusion with program offerings. NJNG also argued that the Board's decision in this proceeding is likely to have precedential effect and impact not only on SJG and its customers, but also New Jersey's other gas and electric Utilities. NJNG asserted that a variety of issues that will be addressed in this case may have an impact on NJNG by establishing precedent and stated that NJNG will likely be directly and specifically affected by the relief provided in the matter. In the alternative, NJNG requested that its motion be treated as a motion to participate.

PSE&G

In its motion, PSE&G stated that, as the state's largest electric and gas distribution company and the only combined electric and gas distribution Utility, it has a significant interest in the outcome of the case. PSE&G argued that it is imperative, as noted in the June 2020 Order directing the Utilities to establish EE and peak demand reduction programs, that in areas where gas and electric services territories overlap, the Utilities design a program structure that results in coordinated, consistent delivery of programs among all of the Utilities and allocates costs and energy savings appropriately based on the fuel type(s) treated by EE measures. Additionally, coordination among the Utilities is necessary to avoid redundant or competing offerings and to ensure that customers do not face confusion as a result of overlapping territories and can access both electric and gas measures simultaneously. Since PSE&G's electric territory overlaps with SJG's gas territory, PSE&G asserted that any decision by the Board with respect to SJG's filing could have precedential effect and other impacts on PSE&G that could directly impact the Company's EE programs. More specifically, PSE&G maintained that any Board decision in the SJG matter could directly impact the cost sharing and investment split associated with EE sub-program structure in overlapping territories. PSE&G asserted that it is in a unique position as the only energy Utility whose service territories overlap with the service territories of the other major Utilities and as the Utility with the most extensive experience administering EE programs in the state, most recently completing its Clean Energy Future – Energy Efficiency proceeding. Accordingly, PSE&G argued that its intervention in this proceeding is likely to add constructively to the proceeding.

EEANJ

EEANJ is a 501(c)(6) trade association that, together with its sister organization, the Keystone Energy Efficiency Alliance, represents 75 business members. These members manufacture, design, and implement energy efficiency improvements in buildings across Pennsylvania and New Jersey on behalf of regulated Utilities, the State, and ratepayers. EEANJ asserted that the proposed programs would directly affect the utilization of their services and products. EEANJ also represented that its interests in the proceeding are unique and not adequately represented by any other party; that its members can offer valuable perspectives on the design and implementation of the proposed programs; and that its intervention will not cause confusion or undue delay since it will coordinate its representation with similarly situated parties to the extent that it deems such coordination appropriate.

Motions to Participate

ACE, JCP&L, RECO

Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), and Rockland Electric Company ("RECO") each submitted motions to participate. Each stated that it is a New Jersey public utility incorporated in the State of New Jersey engaged in the transmission, distribution, and sale of electricity or gas for residential, commercial, and industrial purposes

within New Jersey. Each claimed a significant interest in the outcome of the proceeding because the substantive policy and or procedural requirements established in this proceeding are likely to have a precedential effect on proceedings involving the other Utilities. Each also argued that its interest as an investor-owned electric or gas Utility serving retail customers is materially different from that of SJG and the other parties. Finally, each also stated that its participation would not cause delay or confusion because it would abide by any schedule set for the proceeding.

Although ACE, JCP&L and RECO sought participant status, each indicated that it is aware that certain Utilities may seek intervener status in their individual cases pending before the Board. Each pointed out that any Board order approving intervention for a Utility in their case would have to find that, based on the common/overlapping concerns in the June 2020 Order, the Utility satisfies the standard of being “substantially, specifically, and directly affected by the outcome” of the case pursuant to N.J.A.C. 1:1-16.1(a). ACE, JCP&L and RECO each stated that, if the Board determines that the Utility has a sufficient interest to be an intervener in their individual case, then they would have the identical sufficient interest to be an intervener in that Utility’s case. Accordingly, ACE, JCP&L, and RECO indicated that their motions for participant status are provisional and should be treated as motions to intervene should SJG be granted intervener status in their cases.

Google

On October 2, 2020, Google, LLC ("Google"), submitted a motion to participate. Google stated that it is a multinational technology company, an industry leader in smart home technology, including the Nest Learning Thermostat and the Nest Thermostat E. Google argued that it has a significant interest in the outcome of this proceeding because Google already participates in energy efficiency programs with PSE&G, NJNG, and SJG and believes that implementation of SJG’s proposals will enlarge this opportunity and bring further benefits to New Jersey residents and businesses. Additionally, Google asserted that it would add constructively to this matter by clarifying certain issues and contributing to the development of a complete record based on its unique, significant interests in employing its technology to assist SJG and the State in reaching energy efficiency goals. Google further stated that it will not seek to delay the proceeding in any manner. Google noted that it was a participant in PSE&G’s recently approved EE program.

BPA

The Building Performance Association (“BPA”) is a 501(c)6 industry association committed to supporting policies that will improve and increase the expansion of home and building performance, EE businesses, and industries. BPA is made up of more than 9,800 members who are working professionals in contracting services, weatherization, product manufacturing and distribution, program administration, building science, and nonprofits. BPA asserted that it and its New Jersey members have a significant interest in the outcome of the case and will add constructively to the case. Additionally, BPA stated that its participation will not cause undue delay or confusion. By letter dated October 16, 2020, BPA withdrew its motion to participate.

RESPONSES

On October 6, 2020, SJG submitted a letter responding to the filed motions to intervene and participate. In its letter, SJG indicated that it had no opposition to the motions to participate filed by ACE, JCP&L, RECO, and Google. Additionally, SJG did not oppose the intervention of EEANJ. With respect to the motions to intervene filed by NJNG and PSE&G, SJG stated that, while the Company agrees that the EE programs to be implemented by each Utility will require considerable

coordination and involve import cost sharing and investment allocation issues, this could be adequately addressed with participant status and ongoing dialogue among the Utilities. Accordingly, SJG requested that NJNG and PSE&G be granted participant status. However, SJG stated that, should NJNG be granted intervener status, SJG should be granted intervener status in NJNG's pending filing. By way of a supplemental letter, SJG indicated that it did not oppose the participation of BPA.

DISCUSSION AND FINDINGS

Motions to Intervene or Participate

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record that involves consideration of a diversity of interests must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervener's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106 (June 8, 2005).

After consideration of the papers, and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that EEANJ will be directly affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. I **HEREBY FIND** that EEANJ has met the standards for intervention in this proceeding. Accordingly, having received no objections, I **HEREBY GRANT** the motion for intervention of EEANJ pursuant to the authority granted to me by the Board under the September 23, 2020 Order.

NJNG and PSE&G, both Utilities serving customers in New Jersey, noted that the Board's decision is likely to have precedential effect and impact on their Utilities. I acknowledge that NJNG's and PSE&G's experience running their own EE programs in New Jersey put them in a position to add to the development of the record in this matter. I am not persuaded, however, that their interests are sufficiently distinct from those of the other parties that they merit intervener

status or that NJNG or PSE&G will be affected by the alleged precedential effect of this case. All of the proposed EE programs will be examined based on their specific components, just as programs proposed by NJNG and PSE&G will be reviewed and analyzed upon their own merits. After weighing the issues, I **FIND** that NJNG and PSE&G have not made showings that their interests in this matter warrant granting their motions to intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** the motions for intervention filed by NJNG and PSE&G. Pursuant to N.J.A.C. 1:1-16.5, I will treat these motions, in the alternative, as motions to participate. Considered under this standard, I **FIND** that NJNG and PSE&G have significant interests in this proceeding and that, as participants, NJNG and PSE&G are likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** NJNG and PSE&G participant status, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

With regard to the motions to participate filed by ACE, JCP&L, RECO, and Google, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of ACE, JCP&L, RECO, and Google in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the motions to participate filed on behalf of ACE, JCP&L, RECO, and Google, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

In addition, I reviewed the proposal for a preliminary schedule, which has been agreed to by Staff, the New Jersey Division of Rate Counsel ("Rate Counsel"), and the Company. I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

PREHEARING ORDER

1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:

Through this proceeding, SJG seeks approval to invest approximately \$166.9 million (investment and expenses) in its Program over a three (3) year period (July 1, 2021 through June 30, 2024). In addition to approval of the plan to implement the Program, the Company requested approval of a cost recovery mechanism. Specifically, SJG requested authority to recover the revenue requirement associated with the costs to implement the Program, including incentives, outside services, inspections and quality control, information technology costs, and O&M costs. The Company proposed to recover program costs through the EET rider of its tariff. The revenue requirement recovered through the EET would be designed to recover the annual costs of the Program, as well as true-up for any prior period over/under recovery. The Company proposed to recover lost revenues from reduced natural gas sales associated with the Program through its existing Conservation Incentive Program mechanism.

Issues to be Resolved

- A. The cost effectiveness and cost efficiency of the proposed activities and programs.
- B. The lawfulness of the proposed program offerings.
- C. The reasonableness and lawfulness of the proposed cost recovery mechanism.

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:

Counsel for South Jersey Gas Company

Deborah M. Franco, Esq.
VP, Clean Energy & Sustainability Energy Efficiency & Conservation
1 South Jersey Plaza
Folsom, New Jersey 08037
dfranco@sjindustries.com

Counsel for the Staff of the New Jersey Board of Public Utilities

Department of Law & Public Safety
Division of Law, Public Utilities Section
R.J. Hughes Justice Complex, 7th Floor West
25 Market Street, P.O. Box 112
Trenton, NJ 08625

Pamela Owen, Assistant Section Chief, DAG
pamela.owen@law.njoag.gov

Terel Klein, DAG
terel.klein@law.njoag.gov

Counsel for Rate Counsel

Stefanie Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
sbrand@rpa.nj.gov

Counsel for EEANJ

Erin Cosgrove, Esq.
701 E. Gate Dr.
Mt. Laurel, NJ 08054
ecosgrove@eeaofnj.org

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in SJG's service territory. The dates, times, and locations of the public hearings are to be determined.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings are tentatively scheduled for February 23, 24, and 25, 2021 at a time and location to be determined based upon the availability of the parties and myself.

5. **STIPULATIONS:**

Staff, Rate Counsel, and SJG have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

6. **SETTLEMENT:**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

The time limits for discovery shall be as agreed to by the parties or in accordance with N.J.A.C. 1:1-10.4.

9. **ORDER OF PROOFS:**

SJG has the burden of proof. The hearings will be conducted by topic in the following order:

First – SJG

Second – Rate Counsel

Third – EEANJ

Fourth – Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES:**

SJG will present the following witnesses: Peter Druckenmiller, Stefany Graham, and Isaac Gabel-Frank

Rate Counsel and Interveners' witnesses will be determined at a later time.

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness, and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross-examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

All pending motions to intervene and/or participate have been addressed.

14. **SPECIAL MATTERS:**

None at this time.

The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: November 2, 2020

BY:

A handwritten signature in black ink, appearing to read "Upendra Chivukula", written over a horizontal line.

UPENDRA J. CHIVUKULA
COMMISSIONER

IN THE MATTER OF THE IMPLEMENTATION OF P.L. 2018, c. 17 REGARDING THE
ESTABLISHMENT OF ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION
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IN THE MATTER OF THE PETITION OF SOUTH JERSEY GAS COMPANY FOR APPROVAL
OF NEW ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST RECOVERY
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DOCKET NOS. QO19010040 AND GO20090618

SERVICE LIST

South Jersey Gas Company

Deborah M. Franco, Esq.
VP, Clean Energy & Sustainability Energy
Efficiency & Conservation
520 Green Lane
Union, NJ 07083
dfranco@sjindustries.com

One South Jersey Place
Atlantic City, NJ 08401

Dominick DiRocco
ddirocco@sjindustries.com

Maureen Minkel, Director
mminkel@sjindustries.com

Stefany M. Graham
Director, Rates and Regulatory Affairs
sgraham@sjindustries.com

W. Peter Druckenmiller, Program Manager
wdruckenmiller@sjindustries.com

Carolyn A. Jacobs
Regulatory Compliance Specialist
cjacobs@sjindustries.com

Isaac Gabel-Frank
Brendan Baatz
Gabel Associates, Inc.
417 Denison Street
Highland Park, NJ 08904
isaac@gabelassociates.com
brendan@gabelassociates.com

New Jersey Division of Rate Counsel

140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Brian O. Lipman, Esq., Litigation Manager
blipman@rpa.nj.gov

Felicia Thomas-Friel, Esq.
Managing Attorney – Gas
ftomas@rpa.nj.gov

Kurt Lewandowski, Esq.
Assistant Deputy Rate Counsel
klewando@rpa.nj.gov

Maura Caroselli, Esq.
Assistant Deputy Rate Counsel
maura.caroselli@rpa.nj.gov

Sarah Steindel, Esq.
Assistant Deputy Rate Counsel
ssteinde@rpa.nj.gov

Shelly Massey
Paralegal
smassey@rpa.nj.gov

Karen Forbes
kforbes@rpa.nj.gov

**New Jersey Division of Rate Counsel,
cont'd**

David Dismukes, Ph.D.
Consulting Economist
Acadian Consulting Group
5800 One Perkins Place Drive, Suite 5-F
Baton Rouge, LA 70808
daviddismukes@acadianconsulting.com

Ezra Hausman, Ph.D., President
Ezra Hausman Consulting
77 Kaposia St.
Auburndale, MA 02466
ezra@ezrahausman.com

Robert J. Henkes
Henkes Consulting
7 Sunset Road
Old Greenwich, CT 06870
rhenkes@optonline.net

New Jersey Division of Law

R.J. Hughes Justice Complex, 7th Floor
West
25 Market Street
P.O. Box 112
Trenton, NJ 08625-0112

David Apy, Assistant Attorney General
david.apy@law.njoag.gov

Daren Eppley, Section Chief, DAG
daren.eppley@law.njoag.gov

Pamela Owen
Assistant Section Chief, DAG
pamela.owen@law.njoag.gov

Matko Ilic, DAG
matko.ilic@law.njoag.gov

Terel Klein, DAG
terel.klein@law.njoag.gov

New Jersey Board of Public Utilities

44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Aida Camacho-Welch
Secretary of the Board
aida.camacho@bpu.nj.gov

Paul Flanagan, Esq., Executive Director
paul.flanagan@bpu.nj.gov

Bob Brabston, Esq.
Deputy Executive Director
robert.brabston@bpu.nj.gov

Christine Sadovy, Chief of Staff
christine.sadovy@bpu.nj.gov

Counsel's Office

Abe Silverman, Esq.
General Counsel
abe.silverman@bpu.nj.gov

Carol Artale, Esq.
Deputy General Counsel
carol.artale@bpu.nj.gov

Lanhi Saldana, Esq.
Legal Specialist
lanhi.saldana@bpu.nj.gov

Office of the Economist

Dr. Ben Witherell, Chief Economist
benjamin.witherell@bpu.nj.gov

Jackie O'Grady
jackie.ogrady@bpu.nj.gov

Division of Clean Energy

Kelly Mooij, Director
kelly.mooij@bpu.nj.gov

Stacy Ho Richardson, Esq.
Deputy Director
stacy.richardson@bpu.nj.gov

**New Jersey Board of Public Utilities,
cont'd**

Benjamin Goldstein, Program Specialist
benjamin.goldstein@bpu.nj.gov

Mahogany A. Hall, Program Specialist 2
mahogany.hall@bpu.nj.gov

Office of Policy and Planning

Chris Colacello, Analyst I
chris.colacello@bpu.nj.gov

Division of Energy

Stacy Peterson, Director
stacy.peterson@bpu.nj.gov

Paul Lupo, Bureau Chief
paul.lupo@bpu.nj.gov

Scott Sumliner
scott.sumliner@bpu.nj.gov

Energy Efficiency Alliance of New Jersey

Erin Cosgrove
701 E. Gate Dr.
Mt. Laurel, NJ 08054
ecosgrove@eeaofnj.org

Atlantic City Electric Company

Philip J. Passanante, Esq.
Assistant General Counsel
Atlantic City Electric Company
92DC42
500 North Wakefield Drive
Newark, DE 19702
philip.passanante@pepcoholdings.com

Jersey Central Power & Light Company

Riker Danzig Scherer Hyland & Perretti
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962-1981

James C. Meyer, Esq.
jmeyer@riker.com

Edward K. DeHope, Esq.
kdehope@riker.com

Lauren Lepkoski, Esq.
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
llepkoski@firstenergycorp.com

Joshua R. Eckert, Esq.
300 Madison Avenue
Morristown, NJ 07962
jeckert@firstenergycorp.com

New Jersey Natural Gas Company

Andrew K. Dembia, Esq.
Regulatory Affairs Counsel
1415 Wyckoff Road
P. O. Box 1464
Wall, New Jersey 07719
adembia@njng.com

Public Service Electric & Gas Company

PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, New Jersey 07102

Joseph F. Accardo Jr., Esq.
Vice President Regulatory & Managing
Counsel
joseph.accardojr@pseg.com

Matthew M. Weissman, Esq.
Deputy General Counsel State Regulatory
matthew.weissman@pseg.com

Danielle Lopez, Esq.
Associate Counsel - Regulatory
danielle.lopez@pseg.com

Michele Falcao
Regulatory Filings Supervisor
michele.falcao@pseg.com

Caitlyn White
Regulatory Case Coordinator
caitlyn.white@pseg.com

Bernard Smalls
bernard.smalls@pseg.com

Rockland Electric Company

4 Irving Place Suite 1815-S
New York, New York 10003

Margaret Comes, Esq.
Associate Counsel
comesm@coned.com

Jack Carley, Esq.
Assistant General Counsel
carleyj@coned.com

Google

Murray E. Bevan, Esq.
Jennifer McCave, Esq.
Bevan, Mosca, Giuditta P.C.
222 Mount Air Road, Suite 200
Basking Ridge, NJ 07920
mbevan@bmg.law
jmccave@bmg.law

EXHIBIT A

DOCKET NOS. QO19010040 AND GO20090618

Procedural Schedule

Motions to Intervene/Participate	October 2, 2020
Responses to Intervention/Participation	October 9, 2020
First Round Discovery Requests+	October 23, 2020
First Round Discovery Answers	November 6, 2020
Discovery Conference	November 17, 2020
Second Round Discovery Requests	December 1, 2020
Second Round Discovery Answers	December 15, 2020
Rate Counsel/Intervener Testimony	January 8, 2021
Discovery on Testimony	January 15, 2021
Responses to Discovery	January 22, 2021
Rebuttal Testimony	February 1, 2021
Discovery on Rebuttal	February 8, 2021
Answers to Rebuttal Discovery	February 15, 2021
Public Hearing	TBD
Settlement Conference	February 16, 2021
Evidentiary Hearings with Oral Surrebuttal	February 23, 24, & 25, 2021
Initial Briefs	March 19, 2021
Reply Briefs	March 25, 2021

+ Petitioner agrees that discovery is ongoing and will endeavor to answer all discovery within seven business days of service.