



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

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

STEFANIE A. BRAND
Director

January 27, 2021

Via 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

**Re: Public Service Electric and Gas Company, Petition for Approval of Sale
of Real Property, Block 59.2 a/k/a 59.02, Lot 26, 331 Route 202,
Township of Montville, Morris County, N.J.
BPU Docket No. EM20100646**

Dear Secretary Camacho-Welch:

Please accept for filing in the above-referenced matter the comments of the New Jersey Division of Rate Counsel ("Rate Counsel"). Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities ("BPU" or the "Board") in *I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*, BPU Docket No. 20030254, copies of this comment letter are being provided to each person on the service list by electronic mail only. No paper copies will follow. **Please acknowledge receipt of this comment letter.** Thank you.

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

Summary

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”), subject to the conditions set forth herein.

Background

PSE&G filed a Petition for Approval of Sale of Property (“Petition”) on October 9, 2020, asking the Board of Public Utilities (“Board”) to approve the proposed sale of certain real property, Block 59.2/59.02, Lot 26, a/k/a 331 Route 202, in the Township of Montville, Morris County (“Property”), to Diversified Properties, LLC, a New Jersey limited liability company (“Purchaser”) for \$1,200,000. At the time of closing, Purchaser may pay PSE&G additional compensation of \$7.50 per gross square foot in excess of 40,000 square feet of site development approval that the Purchaser may obtain in its municipal site plan approval for the Property. *Petition, ¶¶ 3 & 5; Ex. D ¶¶ 2 & 4; Ex. D-2.* PSE&G intends to sell the entire Property, which consists of approximately 15.05 acres of vacant land bearing a street address of 331 Route 202. *Petition, p. 1 and ¶ 1; Exs. A & B; Ex. D-1; RCR-11.* The closing on the proposed sale is tentatively scheduled for the fourth quarter of 2021, *Petition, ¶ 10*, or the first quarter of 2022, *Ex. D, ¶ 9, Closing.* The Closing is conditioned on Board approval and subject to Purchaser obtaining approval for site development of at least 40,000 gross square feet of commercial space. *Petition, ¶ 10 and Ex. D ¶¶ 4 and 5.E.*

Under the Contract, Purchaser has a one-year Approval Period, with the right to two three-month extensions, to obtain all government approvals necessary to develop the Property with a minimum of 40,000 square feet of commercial space for a use consistent with the current zoning of the Property. *Ex. D, ¶ 4.D, Approval Contingency.* Should Purchaser be unable to obtain those approvals during the Approval Period, or at any time thereafter, Purchaser has the option to terminate the Contract and PSE&G must refund Purchaser's deposit with interest. *Id.* Purchaser will pay taxes on the Property until the Closing, *id.*, while PSE&G retains the risk of loss or condemnation until the Closing, *Ex. D, ¶ 12, Damage and Condemnation.*

PSE&G will reserve an easement over certain areas of the Property to operate, maintain, upgrade or relocate of its facilities (primarily a portion of the Susquehanna-Roseland transmission line) and to trim or remove any trees or other vegetation that PSE&G considers may endanger its facilities. *Ex. D, ¶ 5.B, Transfer of Ownership; Ex. C to Ex. D; RCR-08.*

PSE&G supported its Petition with certain exhibits, including a metes and bounds description of the Property based on a July 28, 2009 survey by Rettew Associates, Inc., *Petition, Ex. A*; a Nov. 13, 2018 survey map of the Property by Brian S. Gregis of PSEG Services Corporation, *Petition, Ex. B*; an August 27, 2020 Affidavit of Publication in the Star-Ledger of the public notice requesting bids to purchase the Property, *Petition, Ex. C*; the September 24, 2020 Affidavit of Roger J. Trudeau, Manager of Corporate Real Estate Transactions of PSEG Services Corporation, agent for PSE&G, *Petition, Ex. D*, with four exhibits thereto: the March 18, 2020 Appraisal of the Property by Ronald D. Chiarello of Professional Appraisal Associates ("Appraisal"), *Ex. D-1*; the August 4, 2020 Contract for Sale of Real Estate, *Ex. D-2*; proposed

PSE&G Journal Entry for sale of the Property, *Ex. D-3*; and proposed Title Closing Statement for sale of the Property, *Ex. D-4*; the September 3, 2020 Written Consent of the PSE&G Real Property Committee to the sale of the Property, *Petition, Ex. E*; and the July 10, 2020 Certification of Non-Affiliation between PSE&G, its affiliates and subsidiaries and the Purchaser (“Non-Affiliation Certification”), *Petition, Ex. F*. Subsequently, on November 23, 2020, PSE&G responded to Board Staff discovery requests S-ENG-01 through S-ENG-04 and on January 15, 2021 PSE&G responded to Rate Counsel’s discovery requests RCR-01 through RCR-11.

PSE&G purchased the Property on October 14, 2009 for \$2,075,000, *Petition, ¶ 1; Ex. D ¶ 5*, (\$2,177,286 including closing costs, *Ex. D-3*), *Ex. D ¶ 5 and Ex. D-3*, in order to widen its then-existing right of way and construct a transmission tower for the Susquehanna-Roseland electric transmission line and for construction access. *Petition, ¶ 1; Ex. D ¶ 6; Ex. D-3; S-ENG-03*. PSE&G constructed that new transmission monopole and its foundation on the Property at a cost of \$1,264,478. *S-ENG-03*.

Other than the easement that the Company is reserving to itself, the Property is not part of PSE&G’s electric transmission or distribution systems and is no longer used and useful to PSE&G. *Petition, ¶ 11; Ex. D ¶ 6; see RCR-08*. PSE&G asserts that selling the Property will not compromise its ability to provide safe, adequate and reliable utility service. *Petition, ¶ 11; Ex. D ¶ 6*.

The Property is not income-producing. *Petition, ¶ 7; Ex. D ¶ 6*. The carrying costs for the Property have been \$33,300 per year for property taxes, and there have been no

maintenance expenses or management fees. *Petition*, ¶ 7; *Ex. D* ¶ 7; *RCR-07*. PSE&G has charged the carrying costs of the Property to FERC Account 408.1, “Taxes other than Income Taxes,” included in its transmission cost of service, which PSE&G recovers through its Transmission Formula Rates that are reviewed annually. *RCR-07*.

The Company carries the Property on its books with a value of \$2,177,286, which includes closing and other costs associated with the purchase. *Petition*, ¶ 9; *Ex. D* ¶ 5 and *Ex. D-3*. The municipal tax assessment valuation of the Property is \$1,364,900 and the yearly real estate taxes total \$33,000. *Petition*, ¶¶ 7 & 12; *Ex. D* ¶ 7. PSE&G’s appraiser valued the Property, as of March 18, 2020, at \$1,350,000. *Petition*, ¶ 4; *Ex. D* ¶ 3; *Ex. D-1*.

PSE&G charged the cost of purchasing the Property to its Susquehanna to Roseland Electric Transmission project. *Petition*, ¶¶ 1 & 8; *Ex. D-2* ¶ 6; *Ex. D-3*. Now that the Susquehanna to Roseland project is fully in service, *Ex. D* ¶ 6, PSE&G proposes to credit the proceeds of the sale, net of closing costs, against the Susquehanna to Roseland project costs that are currently included in the Company’s Plant in Service accounts for that project. *Petition*, ¶ 8; *Ex. D-3*; *RCR-08*. PSE&G proposes to net the costs of the sale¹ against the \$1,200,000 proceeds from the sale. *Ex. D-3*; *RCR-08*.

PSE&G began marketing the Property in 2014, and in 2016 began listing it for sale with American Properties, Inc., advertising it on two commercial property marketing sites and placing signage on the Property. *Petition*, ¶ 2. PSE&G received a few expressions of interest in the Property, but none committed to purchase it. *Id.* PSE&G published legal advertisements

¹ The estimated costs of the proposed sale of the Property are approximately \$94,145. *Ex. D-3*; *RCR-08*.

for the Property in the Star-Ledger newspaper twice in 2014, twice in 2018 and four times in 2019, and received only one bid, from the proposed Purchaser. *Petition*, ¶ 3.

The Company bought the Property in October 2008 for \$2,075,000, plus closing costs. PSE&G's appraiser valued the Property at \$1,350,000 as of March 18, 2020, and the Company has entered into the Contract to sell it for \$1,200,000. Thus, the selling price of the Property is \$150,000 lower than its latest appraised value and \$875,000 lower than PSE&G paid for it in October 2009.

Analysis under Applicable Board Statute and Regulations

The applicable law governing 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 Petition 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.

The Susquehanna-Roseland project is complete and fully in service, and the Property is not currently used or useful to the Company. The Company has not indicated the Property requires any environmental remediation, *RCR-01, -02 & -03*, or that it has conducted any activities on the Property that could cause contamination.

While the proposed sale will relieve PSE&G of the \$33,000 annual carrying costs for the Property, PSE&G anticipates losing approximately \$875,000 on the sale, having bought it for \$2,075,000 and planning to sell it for \$1,200,000. While that anticipated loss and its proposed accounting should be reviewed in an appropriate regulatory proceeding, the amount of

money involved should not adversely affect PSE&G's finances or its ability to provide safe, adequate and proper service.

The Company charged the purchase of the Property to the cost of the Susquehanna to Roseland Electric Transmission Project, and proposes to credit the net proceeds from the sale to its Plant in Service accounts for that project as an offset to construction costs.

There is no relationship between PSE&G and the Purchaser, other than that of seller and buyer. *Petition, ¶¶ 3.d & 6 and Ex. F; RCR-09.*

Conclusion

Rate Counsel does not object to the proposed sale of the Property. However, it is Rate Counsel's recommendation that the accounting for the proceeds of the sale, the loss in value between the purchase and the sale of the Property, as well as the construction and operation of the Susquehanna to Roseland electric transmission project, be reviewed in PSE&G's next base rate filing 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, management and sale of the Property in PSE&G's next base rate filing 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.
2. Rate Counsel retains all rights to review all costs and proceeds related to the

acquisition, ownership, management and sale of the Property in PSE&G's next base rate case or another appropriate proceeding.

3. Rate Counsel retains all rights to review all costs and proceeds related to the proceeding the construction and operation of the Susquehanna to Roseland electric transmission project in PSE&G's next base rate case or another appropriate

4. The net proceeds from the sale be immediately credited as an offset to the costs of the Susquehanna-Roseland transmission project.

5. Approval of the sale does not include or imply any position as to the prudence, recoverability or allocation of costs of acquiring, owning, managing or selling the Property.

6. 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.

7. 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: /s/ *Brian Weeks*
Brian Weeks, Esq.
Deputy Rate Counsel

c: Service List

**In the Matter of the Petition of Public
Service Electric and Gas Company for
Approval of Sale of Real Property Block
59.2, Lot 26, 331 Route 202
Township of Montville,
Morris County, New Jersey
BPU Docket No. EM20100646
SERVICE LIST**

Aida Camacho-Welch, Secretary
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Paul Flanagan, Exec. Director
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Abraham Silverman, Esq.
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Stacy Peterson, Director
Division of Energy
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Heather Weisband, Esq.
Division of Energy
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Sri Medicherla
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Dean Taklif
NJ Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Matko Ilic, DAG
Division of Law
Public Utilities Section
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, N.J. 08625

Pamela Owen, DAG
Division of Law
Public Utilities Section
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, N.J. 08625

Stefanie A. Brand, Director
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Brian O. Lipman, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Brian Weeks, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Debora Layugan
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Tylise Hyman
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Ana J. Murteira, Esq.
PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, NJ 07102

Robert Gardinor
PSEG Services Corporation
80 Park Plaza, T6B
P.O. Box 570
Newark, NJ 07102

Michele Falcao
PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, NJ 07102

Lucrezia White
PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark, NJ 07102

