

TRIF & MODUGNO

ATTORNEYS AT LAW

Louis Modugno
lmodugno@tm-firm.com

January 20, 2022

Via Electronic Mail (board.secretary@bpu.nj.gov)

Hon. Aida Camacho-Welch
Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Trenton, New Jersey 08625-0350

**RE: I/M/O of The Petition of Public Service Electric and Gas Company for
Approval of an Infrastructure Advancement Program (IAP)
Docket No.: EO21111211 and GO21111212**

Dear Secretary Camacho-Welch:

On behalf of Ferreira Construction Company, Inc. ("Ferreira"), please accept via electronic mail, a copy of Ferreira's Motion for Leave to Intervene or Participate in the above-captioned matter.

Please do not hesitate to contact us if you have any comments or questions.

Respectfully Submitted,

TRIF & MODUGNO LLC

/s/ Louis A. Modugno
Louis A. Modugno

Enclosures

cc: Attached Service List (via e-mail)

NEW JERSEY

89 Headquarters Plaza
North Tower, Suite 1201
Morristown, New Jersey 07960
973-547-3611
Facsimile: 973-554-1220

NEW YORK

11 Broadway
Suite 615
New York, New York 10004
917-477-2999
Facsimile: 973-554-1220

PENNSYLVANIA

1700 Market Street
Suite 1005
Philadelphia, Pennsylvania 19103
267-869-0050
Facsimile: 267-869-0051

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE PETITION OF)	
PUBLIC SERVICE ELECTRIC AND GAS)	
COMPANY FOR APPROVAL OF AN)	Docket No. EO21111211
INFRASTRUCTURE ADVANCEMENT)	Docket No. GO21111212
PROGRAM (IAP))	

**MOTION FOR FERREIRA CONSTRUCTION CO., INC.
FOR LEAVE TO INTERVENE IN THE PRESENT MATTER
OR, ALTERNATIVELY, TO PARTICIPATE IN THE PRESENT MATTER**

1. Ferreira Construction Co., Inc. (“Ferreira”), by way of Motion, respectfully requests leave to intervene in the present matter pursuant to N.J.A.C. § 1:1-16.1. Alternatively, Ferreira respectfully requests that it be allowed to participate in the instant proceedings pursuant to N.J.A.C. § 1:1-16.6.

A. Introduction

2. Ferreira is a privately held, large-scale, full-service construction company specializing in transportation infrastructure, utility related construction, marine work, buildings, interior renovations, solar installation, and construction management.

3. On November 4, 2021, Public Service Electric and Gas Company (“PSE&G”) filed a Petition seeking approval from the New Jersey Board of Public Utilities (“Board”) for an Infrastructure Advancement Program (“IAP”) and associated cost recovery mechanism for a four (4) year period.

4. Consistent with prior economic stimulus infrastructure programs submitted by PSE&G and approved by the Board¹, the IAP is designed to, among other things: (i) modernize

¹ I/M/O The Petition Of Public Service Electric And Gas Company For Approval Of An Extension Of The Electric Capital Economic Stimulus Infrastructure Investment Program And Associated Cost Recovery Mechanism, BPU Docket Nos. EO11020088 and GO10110862, “Decision and Order Approving Stipulation” (July 14, 2011); I/M/O The Proceeding For Infrastructure Investment And Cost Recovery Mechanisms For All Gas And Electric Utilities, And I/M/O The Petition Of Public Service Electric & Gas Company For Approval Of A Capital Economic Stimulus Infrastructure Investment Program And An Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:2-21 and 48-

PSE&G's infrastructure, and enhance and maintain the safety and reliability of its electric and gas distribution systems; (ii) enable the penetration of distributed energy resources and electric vehicles consistent with New Jersey's public policy goals; and (iii) provide valuable stimulus to New Jersey's economy during its recovery from the COVID-19 pandemic.

5. By Order dated December 15, 2021, the Board determined that the IAP should be retained for hearing and designated Commissioner Mary-Anna Holden as the presiding officer for this matter. Order Designating Commissioner and Setting Manner of Service and Bar Date, I/M/O the Petition of Public Service Electric and Gas Company for Approval of an Infrastructure Advancement Program (IAP), Docket Nos. EO21111211 and GO21111212 (December 15, 2021). That Order, among other things, set a deadline of January 14, 2022 for motions to intervene or participate in the proceeding.

6. Ferreira respectfully asks that the Board consider this motion to intervene or participate in this matter out of time.

B. Motion for Intervention

7. Pursuant to the New Jersey Administrative Code, a party may intervene in any matter where the party "will be substantially, specifically and directly affected by the outcome" of those proceedings. N.J.A.C. § 1:1-16.1(a). Such a motion may be made "at any time after the case has been initiated." See N.J.A.C. § 1:1-16.1(a).

8. In analyzing a motion to intervene, the Board is directed to consider: (i) the "nature and extent" of the moving party's interest in the outcome of the case; (ii) the extent to which the movant's interest "is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;" (iii) the "prospect of confusion or undue delay" resulting

2-21.1, BPU Docket Nos. EO09010049 and GO09010050, "Decision and Order Approving Stipulation" (April 28, 2009).

from the movant's inclusion; and (iv) other "appropriate matters." N.J.A.C. § 1:1-16.3(a); see also Order I/M/O Petition of PSE&G Co. for Approval of a Solar Generation Investment Program and an Associated Cost Recovery Mechanism, Docket No. EO09020125 (June 8, 2009)(setting forth standards for intervention).

9. None of these elements are determinative; rather, the "standards involve[] an implicit balancing test. The need and desire for development of a full and complete record . . . must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings." Order, I/M/O Petition of Atlantic City Elec. Co. for a Declaratory Order with Respect to the Definition of "Solar Renewable Energy Certificate" Pursuant to the Provisions of N.J.S.A. 48-3-51. Ferreira respectfully submits that, for the reasons described below, its motion to intervene meets each of these elements.

10. As to the first element, it is quite clear that Ferreira has a substantial interest in the outcome of this matter. According to PSE&G, it anticipates continuing to use outside contractors (like Ferreira) for much of the planned work under the IAP. (Direct Testimony of Wade E. Miller 17:4-7). Those contractors, of course, will need to maintain staff and equipment to perform that work. Ferreira specializes in precisely the type of large-scale heavy infrastructure projects, including many such projects for PSE&G, that are contemplated by the IAP.

11. In addition, knowing whether a multi-year program, such as the IAP, will be approved by the Board is important for contractors, like Ferreira, because it allows them to make investments in staff, materials and equipment with greater certainty.

12. Accordingly, Ferreira has a current and concrete interest in the Program that will be "specifically and directly" affected by the outcome of this matter.

13. As to the second element, there are no other parties to the proceeding with interests identical to those of Ferreira. While various other parties to the proceeding have a general interest

in obtaining approval of the IAP, or in making known their comments concerning the program, Ferreira's interest is much more specific and concrete. As noted above, Ferreira's interest and expertise is with regard to the heavy infrastructure projects (and attendant jobs) that will be created as a result of the IAP. Thus, Ferreira's participation will add measurably and constructively to the scope and resolution of this matter.

14. Finally, allowing Ferreira to intervene in this action is not likely to cause any confusion or undue delay. Ferreira will coordinate its representation with similarly situated parties in this docket to the extent that it finds such action appropriate and will abide by the schedule set forth for this proceeding.

15. For the foregoing reasons, Ferreira respectfully requests that the Board grant this motion, and grant Ferreira intervenor status in this proceeding.

C. Alternative Motion for Participant Status

16. Alternatively, Ferreira requests that it be allowed to participate in the instant proceeding pursuant to N.J.A.C. § 1:1-16.6. cf. N.J.A.C. § 1:1-16.5 ("Every motion for leave to intervene shall be treated, in the alternative, as a motion for permission to participate").

17. In analyzing such a request, the Board is directed to consider "whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion." N.J.A.C. § 1:1-16.6(b).

18. As noted above, Ferreira's status as a large-scale heavy infrastructure company that has completed the exact projects contemplated by the IAP gives it unique expertise and a distinctive viewpoint concerning the program as compared to the parties and participants in this proceeding. Thus, Ferreira's participation is likely to be constructive. For similar reasons, the Board previously permitted Ferreira to participate in similar proceedings relating to Energy Strong I and II and PSE&G's GSMP I and II programs. See Order on Intervention & Participation Motions, I/M/O

Public Service Electric and Gas for Approval of the Energy Strong Program, Docket Nos. EO13020155, 0013020156 (Sept. 30, 2013).

19. Ferreira will also coordinate its representation with similarly situated parties in this docket to the extent that it funds such action appropriate. Moreover, Ferreira will abide by the schedule set forth by this proceeding and, if granted participant status, will not seek to participate beyond the bounds permitted by N.J.A.C. § 1:1-16.6(c). Accordingly, allowing Ferreira participant status will not cause any undue delay or confusion with regard to these proceedings.

20. Copies of all correspondence and other communications relating to this proceeding should be addressed to:

Louis A. Modugno
Trif & Modugno LLC
89 Headquarters Plaza, North Tower, Suite 1201
Morristown, New Jersey 07960
lmodugno@tm-firm.com

WHEREFORE, Ferreira Construction Co., Inc. respectfully requests: (i) an Order granting Ferreira intervenor status in this proceeding pursuant to N.J.A.C. § 1:1-16.1; or (ii) in the alternative, an Order granting Ferreira full rights as a participant in this matter pursuant to N.J.A.C. § 1:1-16.6; and (iii) providing such other or further relief as the Board may deem just and proper.

Dated: January 20, 2022

Respectfully submitted,

/s/ Louis A. Modugno
TRIF & MODUGNO LLC
89 Headquarters Plaza
North Tower, Suite 1201
Morristown, New Jersey 07960
(973) 547-3611
(973) 554-1220
Counsel for Ferreira Construction Co., Inc.

BPU

Robert Brabston
Board of Public Utilities
44 South Clinton Avenue
9th Floor
P.O. Box 350
Trenton NJ 08625
robert.brabston@bpu.nj.gov

BPU

David Brown
Board of Public Utilities
44 South Clinton Avenue
Suite 314
P.O. Box 350
Trenton NJ 08625-0350
david.brown@bpu.nj.gov

BPU

Joe Costa
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton NJ 08625-0350
(609) 984-4558
joe.costa@bpu.nj.gov

BPU

Robert Glover
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton NJ 08625-0350
robert.glover@bpu.nj.gov

BPU

Son Lin Lai
Board of Public Utilities
44 South Clinton Avenue
9th Floor
P.O. Box 350
Trenton NJ 08625-0350
(609) 292-2098
son-lin.lai@bpu.nj.gov

BPU

Paul Lupo
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton NJ 08625-0350
paul.lupo@bpu.nj.gov

BPU

Ryan Moran
Board of Public Utilities
44 South Clinton Avenue
9th Floor
P.O. Box 350
Trenton NJ 08625-0350
ryan.moran@bpu.nj.gov

BPU

Jacqueline O'Grady
Board of Public Utilities
44 South Clinton Avenue
9th Floor
P.O. Box 350
Trenton NJ 08625-0350
(609) 292-2947
jackie.ogrady@bpu.nj.gov

BPU

Heather Weisband
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton NJ 08625
heather.weisband@bpu.nj.gov

BPU

Benjamin Witherell
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton NJ 08625-0350
benjamin.witherell@bpu.nj.gov

DAG

Michael Beck
NJ Dept. of Law and Public Safety
25 Market Street
P.O. Box 112
Trenton NJ 08625

DAG

Matko Ilic
NJ Dept. of Law and Public Safety
Richard J. Hughes Justice Complex
Public Utilities Section
25 Market Street, P.O. Box 112
Trenton NJ 08625
matko.ilic@law.njoag.gov

DAG

Jenique Jones
NJ Dept. of Law & Public Safety
Division of Law, Public Utilities Section
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton NJ 08625
jenique.jones@dol.lps.state.nj.us

PSE&G

Joseph F. Accardo, Jr.
PSEG Services Corporation
80 Park Plaza, T5G
P.O. Box 570
Newark NJ 07102
(973) 430-5811
joseph.accardojr@pseg.com

PSE&G

Michele Falcao
PSEG Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark NJ 07102
(973) 430-6119
michele.falcao@pseg.com

PSE&G

Danielle Lopez Esq.
Public Services Corporation
80 Park Plaza, T5
P.O. Box 570
Newark NJ 07102
973-430-6479
danielle.lopez@pseg.com

PSE&G

Bernard Smalls
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
(973) 430-5930
bernard.smalls@pseg.com

PSE&G

Caitlyn White
PSEG Services Corporation
80 Park Plaza, T-5
P.O. Box 570
Newark NJ 07102
(973)-430-5659
caitlyn.white@pseg.com

Rate Counsel

Maura Caroselli Esq.
Division of Rate Counsel
140 East Front Street
4th Floor
Trenton NJ 08625
mcaroselli@rpa.nj.gov

Rate Counsel

Brian O. Lipman
Division of Rate Counsel
140 East Front Street, 4th Flr.
P.O. Box 003
Trenton NJ 08625
(609) 984-1460
blipman@rpa.nj.gov

Rate Counsel

Tylise Hyman
Division of Rate Counsel
140 East Front Street, 4th Floor
Trenton NJ 08625
thyman@rpa.nj.gov

Rate Counsel

Henry M. Ogden Esq.
Division of Rate Counsel
140 East Front Street, 4th Flr.
P.O. Box 003
Trenton NJ 08625
(609) 984-1460
hogden@rpa.nj.gov

Rate Counsel

Debora Layugan
Division of Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton NJ 08625
dlayugan@rpa.nj.gov